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Mr. McLaughlin

ROYAL COMMISSION

ON

TRANSPORTATION

HEARINGS

HELD AT

OTTAWA

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3302	26	Delete "rate of" insert "rated"
3303	8	Delete "rate" insert "rated"
		Delete "cf."
3325	10	Delete "on" insert "or"
3339	10	Delete "noted" insert "notice"
3359	20	Delete "in" insert "on"
		Delete "we" insert "they"
3360	14	Delete "passenger" insert "statutory"
3362	13	Delete "at" insert "on"
	17	Delete "at" insert "on"
	20	Delete "comparative" insert "competitive"
3240	4	Delete "their" insert "there"
3750	7	Delete "pool" insert "full"
		Delete " , " after "terminal" and insert "at"
3751	6	Delete "before" insert "in"
	7	Delete " , " after "proceedings"
	8	Delete "very"
	11	Delete "not"
3308	11	Delete "SINCLAIR" insert "MACDOUGALL"

R E V I S I O N S

3303	7	Delete "transportation" insert "non-competitive"
3321	15	Delete "crowded" insert "limited"
3336	11	Delete "prior" insert "total"



ROYAL COMMISSION ON TRANSPORTATION

Proceedings of hearings held in
the Court Room, Board of Transport
Commissioners Offices, Ottawa,
Ontario, on the 20th day of
January, 1960.

COMMISSION

Mr. M. A. MacPherson, Q.C.	Chairman
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Mr. A. H. Balch	Member
Mr. R. Gobeil	Member
Mr. H. Mann	Member
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Mr. H. W. Ellicott	- Adviser

Mr. F.W. Anderson	Secretary
Major N. Lafrance	Assistant Secretary



Ottawa, Ontario,
Wednesday,
January 20, 1960.

---On commencing at 10:00 a.m.

THE CHAIRMAN: All right, gentlemen,
Mr. Frawley?

MR. FRAWLEY: Yes, Mr. Chairman.

MR. MACDOUGALL: Perhaps before Mr. Frawley starts I would just make a comment on a matter raised by Mr. Mann dealing with rape seed oil. Mr. McCoy has supplied me with a copy of an agreed charge C.P.C. No. 581, effective date February 18, 1959, providing for an agreed charge between Canadian National and Canadian Pacific and a number of American carriers. I do not think it is probably important that they be read out. The shipper is J. Gordon Ross Syndicate.

THE CHAIRMAN: From Moose Jaw?

MR. MACDOUGALL: Moose Jaw, that is right, sir.

MR. FRAWLEY: Ottawa and Moose Jaw.

MR. MACDOUGALL: It is described as a body corporate with head office at Moose Jaw, Saskatchewan, on rape seed meal, oil and screenings, as specified, Saskatoon, Saskatchewan to points in the provinces of New Brunswick, Nova Scotia, Ontario and Quebec.

Perhaps that is the information you were looking for, sir.

THE CHAIRMAN: Thank you.

MR. FRAWLEY: Now, Mr. Chairman, last evening on page 2311, just at the end of Mr. McCoy's cross-examination, I made what turned out to be regarded



1
2 by some people as a jocular remark. I said, offering
3 a statement of rates to the witness -- I said that I
4 thought that no one else was going to be able to
5 participate in the discussion of the statement. What
6 I meant, obviously, was that unfortunately the
7 statement has not been reproduced. I would like to
8 continue that discussion this morning with Mr. McCoy,
9 and I will have it typed by a public typist as soon
10 as I can, today, if possible, and then I will offer
11 it as an exhibit.

12 THE CHAIRMAN: All right. Go ahead, Mr.
13 Frawley.

14 MR. FRAWLEY: The Commissioners will have
15 to indulge with me for the moment.

16 THE WITNESS MCCOY RESUMED:

17 CROSS-EXAMINATION BY MR. FRAWLEY:

18 Q. Mr. McCoy, on that statement -- now,
19 there were two statements; we put them together and
20 numbered them -- on the first page of that statement ---

21 A. Well, Mr. Frawley, perhaps before you
22 commence, I would like to say that we have only had
23 an opportunity of giving this exhibit a very, very
24 superficial check. We have not had an opportunity
25 of checking the mileages -- I should say -- all the
26 mileages or the rates.

27 Q. No.

28 A. But we did notice two, what I would say,
29 rather serious errors.

30 Q. Yes?

A. If you will go to page 7, sir, you will



1
2 see reference to petroleum products from Wainwright,
3 Mafeking, Flin Flon and Yates, as covered by
4 agreed charge number 617.

5 Q. I think it is page 8 in my numbering
6 here.

7 A. There is another one on page 8, which
8 I will speak to later on.

9 Q. This one on page 8 from Winnipeg to
10 Flin Flon ---

11 A. That agreed charge, sir, was cancelled
12 by supplement 1 effective December 3, 1959.

13 Q. Yes. And not replaced by anything?

14 A. There are some other rates in. Just
15 what they are -- I have not had an opportunity of
16 checking them.

17 Q. And this one from Winnipeg to Flin
18 Flon was cancelled and not replaced by anything?

19 A. No, so far as I know at the moment.
20 That is subject to a check, of course.

21 And just another one I will refer to here.
22 You refer to rates on petroleum products from Calgary,
23 Brandon, Winnipeg, and so on to various points. Our
24 page numbering does not coincide with yours. You
25 show agreed charge CTC, AC 761.

26 Q. That is on page 10, according to
27 my numbering.

28 A. Well, I guess may be I mis-numbered
29 my pages. In any event, we show the minimum weight
30 there, sir, as 20 to 40 thousand lbs. I don't see
how that possibly could be. I don't know of any tank



1
2 cars in service which would necessitate our public
3 agreed charge minimum rates of that sort.

4 In fact, the agreed charge in question is one
5 applicable on traffic in tank cars only. And the
6 minimum weight -- the average loading would probably
7 be in the vicinity of 60 or 65 thousand lbs.

8 Q. I am very glad to have your questioning
9 items, and I will certainly confirm them before I
10 offer it as an exhibit, or, if I do offer it as an
11 exhibit. I trust I will have an explanation from
12 the people who made up the statement.

13 A. Yes, you can check it.

14 Q. I will have the people who prepared this
15 statement check it.

16 Now, I think, Mr. McCoy, if you don't mind --
17 you were good enough to hurriedly number the pages --
18 would you mind just going over them again to see whether
19 there is any questioning of the numbering on it?

20 A. My numbering is out, sir.

21 Q. If you would just finish that, and
22 we will go on.

23 Now, I am going to begin with the last page,
24 page 11.

25 A. The incentive rate on commodities
26 listed, Winnipeg to Regina?

27 Q. No, the last page of this statement.

28 A. Well, that is the last page I have
29 here.

30 Q. Page 11?

A. I'm sorry, sir, that is the last page



1
2 I have here. Apparently I haven't got the same thing.

3 MR. FRAWLEY: If the Board will excuse me
4 for just a moment.

5 THE WITNESS: There is something wrong, sir,
6 I'm sorry.

7 MR. FRAWLEY: I can't imagine what it is.
8 There are just seven copies.

9 MR. FRAWLEY Q: If you look at page 11 of
10 the statement, Mr. McCoy, and the last item is a rate
11 on export grain from Port Arthur to Halifax.

12 A. Yes, sir.

13 Q. And the rate -- the ton-mile rate --
14 the rate is 53½ cents, and the ton-mile rate, ton-mile
15 revenue obtained from that rate is .632; in other
16 words, about six-tenths of a cent and a little more
17 per ton-mile?

18 A. That is correct according to the
19 statement, and this again is without a check.

20 Q. Yes, I agree.

21 I call to your attention that rate includes
22 switching, unloading and top wharfage.

23 A. Well, sir, I do not clearly understand
24 what you mean by switching. The C.N.R. at Halifax
25 switch the traffic. There is no outlay to the
26 Harvester Board for switching at that point. We
27 place the cars on the docks.

28 Q. Well, again, Mr. McCoy, I am just
29 going according to instructions, and my instructions
30 are that it includes switching, unloading and top
wharfage charges.



1
2 A. I would have to check the tariff on
3 that, sir, before I could make any definite statement.

4 Q. Well, perhaps this is more precise.
5 I am instructed that they include, for the greater
6 part, dock switching, unloading and top wharfages.
7 Would you agree with that statement?

8 A. As a general statement, yes, I would
9 agree with that.

10 Q. The only purpose of telling you that
11 is that that would, of course, unquestionably reduce
12 the revenue to the railway?

13 A. It would be part of the expense on
14 handling the freight, yes, sir.

15 Q. And it would fractionally reduce
16 that by a little bit than six tenths of a cent per
17 ton-mile?

18 A. I think the confusion is there that
19 we probably have in our tariffs a standard class
20 which we applied generally to export traffic.
21 Whether there would be a top wharfage to this or not,
22 I do not know. There may be something special on
23 grain that I have no specific knowledge of at the
24 moment.

25 Q. Even for the purpose of my question,
26 if we left out those charges -- for the sake of my
27 question, just leave it out -- you are getting from
28 that export traffic some grain from Port Arthur to
29 Halifax about six tenths of a cent per ton-mile?

30 A. Yes, sir. And, unfortunately, I
can't compare that with your Crow's Nest grain scale



1
2 because it doesn't extend to 1,692 miles. Perhaps
3 we could get a better comparison if we had our scale
4 extended.

5 Q. What do you mean? I don't follow
6 that.

7 A. Well, the Crow's Nest grain scale,
8 as far as I know, does not extend beyond 1,650 miles.

9 Q. Oh, I see what you mean. I have not
10 started to compare it yet, with the Crow's Nest grain
11 scale. I simply put it to you that that traffic ---

12 THE CHAIRMAN: That is the extension of
13 taper, Mr. McCoy.

14 That would be the extension of taper?

15 THE WITNESS: I do not think there is any
16 taper in the longer hauls under the Crow's Nest scale.
17 In other words, they take a maximum figure of so much
18 per ton-mile.

19 THE CHAIRMAN: It varies with distance?

20 THE WITNESS: Oh, yes, surely.

21 MR. FRAWLEY Q: Mr. McCoy, I have something
22 handed to me through the courtesy of my friend, Mr.
23 Mauro, and I find that Tupper, which is in the Province
24 of British Columbia, in the Peace River area, has
25 a mileage of 1,702 miles, and there is a rate of
26 37 cents.

27 A. 1,702 miles?

28 Q. Yes?

29 A. Well, the maximum scale I have here,
30 sir, is 1,650.

31 Q. 1,650 is Wembley; 1,702 is Tupper;



1,704, Dawson Creek.

I would think, now, getting back to your original objection, that we can compare your six tenths of a cent for export grain from Halifax to Port Arthur with the Crow's Nest scale?

A. That is true. I have not got the Northern Alberta figures here.

Q. I suppose you will tell me that that rate is established to foster the Atlantic ports?

A. Yes, sir, that rate was put in not only to foster the Atlantic ports, but it was put in in competition with rates by the United States ports.

But, on the other hand, as you know, we are looking at the export rates on grain in the east, and this one would naturally be in the picture. As a matter of fact, sir, I do not know to what extent you intend to go through each individual rate, but all I can say is that if we take all the rates you would find low spot rates and high spot rates, but there would be probably more high ones than low ones.

Q. But, Mr. McCoy, don't misunderstand me. I am not suggesting for a moment that you should look at that rate with a view to increasing it.

A. I'm sorry. We have got to do it.

Q. You have all the low rates to the Atlantic ports, and, in the national good, you should have, and that would be good railroading, too, as far as I am concerned.

A. I have got to look at these rates.



1
2 Q. That is right. I ask you can you tell
3 me the relationship of revenue to cost with respect
4 to that rate of $53\frac{1}{2}$ from Port Arthur to Halifax which
5 returns you .632 cents?

6 A. No, sir. I have not got that
7 particular one in as yet. It is in the mill.

8 Q. It is in the mill?

9 A. In other words, we told you yesterday --
10 not necessarily to you, sir -- but we made a statement
11 that the Canadian National as well as the Canadian
12 Pacific are taking a look at these rates.

13 Q. Would you also look at the last page,
14 page 11? The heading there is "Barley, Corn, Oats,
15 Rye, Wheat, Flour and Grain Products (ex-lake) Export",
16 from Port Colbourne to Halifax, for export, which
17 returns you .655 cents.

18 Now, can you tell me the relationship of
19 revenue to cost for that rate?

20 A. No, sir. That is one that is being
21 studied. As a matter of fact, Mr. Frawley, it is
22 my recollection that rate is one that flows from the
23 Board's decision, and while I must stress that I have
24 not had a chance to check the tariff in detail, my
25 understanding is that rate is based upon a complaint
26 of the Interior Millers Association of Ontario. They
27 complained to the Board some years ago that they are
28 at a disadvantage with mills located at the lake ports,
29 with the result the Board issued what I always
30 considered a rather unique order. They asked us to
add a transit charge into the rate on grain milled at



1
2 the ports. However, I would have to check that in
3 detail.

4 Q. Don't misunderstand me, again, Mr.
5 McCoy. As far as I am concerned, you are under the
6 same compulsion to haul at these rates to Halifax
7 as you are to haul grain to western Canada at the
8 1899 rates?

9 A. These rates have changed. There is
10 not the same compulsion.

11 Q. But there is the same sort of
12 compulsion that makes you put them down to that low
13 figure?

14 A. Well, as I said before, they are not
15 static. They are not fixed. We can adjust them.

16 Q. Sure.

17 A. As we adjust our general rate level.

18 Q. There is another rate on page 11 --
19 a rate on Common Salt for export from Goderich to
20 Halifax, which returns you .823 cents per ton-mile.

21 Can you tell me the relationship of cost
22 to revenue there?

23 A. No, sir, I cannot. But I do notice
24 that that is .4 cents a ton-mile higher than the
25 Crow grain level.

26 Q. There is a rate on page 8 of Fume,
27 Zinc from Tadanac, British Columbia, to Montreal of
28 \$1.24, which returns .971 cents.

29 Have you any idea of the relationship of
30 cost to revenue there?

31 A. No, sir. That is a Canadian Pacific



1
2 proposition entirely.

3 THE CHAIRMAN: Mr. McCoy, is there much
4 movement on the rates?

5 THE WITNESS: I do not know, sir. We
6 get fluctuating reports. I have not checked the
7 tonnage statements, but, as you have probably read
8 in the press, it is contended that the Canadian
9 Millers are having a rather serious time in keeping
10 their overseas markets, but whether or not there is
11 a lot of movement today, I do not know.

12 COMMISSIONER MANN: In relation to what
13 the Chairman has mentioned, is there any movement of
14 salt for export from Goderich to Halifax?

15 THE WITNESS: I do not think there is any
16 movement -- at least, none that I know of at the
17 moment. In fact, the salt market is rather a highly
18 competitive one; and, in addition to that, I would
19 rather think the movement would be from Pugwash,
20 Nova Scotia to Halifax. There may be some rates
21 in the tariff that are not alive. They may be dead
22 rates.

23 MR. FRAWLEY: Mr. McCoy, still on page 11,
24 there is a rate here "Plate, Iron or Steel, Terne,
25 or tin, black (export), from Hamilton to Halifax of
26 45 cents per ton-mile.

27 A. That is as shown in the statement here,
28 yes, sir.

29
30 (Page 3230 follows)



1
2 Q. Can you tell me the relationship of
3 revenue to costs there?

4 A. No, sir.

5 Q. Will you turn to page 5, please. At the
6 top of page 5 there is a rate on agricultural implements
7 from Hamilton to Edmonton of \$4.12, and that returns you
8 on a ton-mile basis 4.041cents per ton mile. Can you
9 tell me the relationship of revenue to cost on that rate?

10 A. No, but I think you will recall that the
11 level on agricultural implements from eastern to western
12 Canada was passed upon by the Transport Board some few
13 years ago.

14 Q. There is no question about it at all being
15 a legal rate.

16 A. I want the entire picture on the record.

17 Q. That is exactly what you have a right to
18 have.

19 Now, will you turn to page 3 and look at the
20 rate on coal from Montreal to Toronto of \$2.80 per ton,
21 which returns you a ton mile rate of .836 cents.

22 MR. SINCLAIR: Where is the point? It is
23 difficult to hear you. Coal from --- ?

24 MR. FRAWLEY: Q. Coal from Montreal to
25 Toronto, and it returns you .836 cents; can you tell me
26 the relationship of cost to revenue there?

27 A. Frankly, Mr. Frawley, I don't know whether
28 or not we took our costs on that, but I do know the rate
29 was put in to meet water competition, and whether or not
30 there is any participation or any excessive participation
in the summer months, I doubt it.



1
2 Q. I wouldn't want particularly my friend
3 Mr. Sinclair to accuse me of leaving anything out, and I
4 just suspect that I know his great interest in that
5 movement of coal from Montreal to Toronto or Toronto to
6 Montreal, and that is ex dock, I suppose?

7 A. Yes, that would be Bickerdike Pier.

8 Q. And it returns you less than one cent a
9 mile; in fact, a little better than 8/10ths of a cent
per ton mile.

10 There are the western rates on coal from
11 Edmonton to Regina.

12 A. What page is that?

13 Q. Page 9, Edmonton to Regina, and it moves
14 at \$4.70 a ton and returns you .969 cents, just a little
better than 9/10ths of a cent per ton mile.

15 A. That rate is, no doubt, one that flows
16 from an old Board Order.

17 Q. The annual Board's Order?

18 A. An old order of the Board.

19 Q. Then there is the one next to it on page
20 9, from Sheerness, Alberta, to Brandon, of \$5.20 a ton,
21 on which on a ton mile basis earns .850 cents per ton
22 mile?

23 A. Yes, that is true.

24 Q. Eight-tenths of a cent ---

25 A. I am wondering if it is your feeling --
26 and assume for the moment we find that these rates are
too low -- would you support us in having them increased?
27 In other words, you recall you negotiated with the
28 railways on several occasions on rates on coal in
29
30



1
2 western Canada. If you are advocating an increase,
3 that is another matter, but I would like to have the
4 entire picture.

5 Q. Is it in the national interest or in the
6 interests of the Canadian economy to move that coal at
7 these lower rates?

8 A. I wouldn't know, sir, I am not in the coal
9 business.

10 Q. Now, there is a rate on page 2 on coal
11 from Bienfait, Saskatchewan, to Fort Frances of \$3.67
12 a long ton -- I only have one or two more -- and that
13 means a return to the railways of .653 cents?

14 A. Yes.

15 Q. About 6/10ths of a cent, a little more, per
16 ton mile. Can you tell me the relationship of cost to
17 revenue or your revenue to cost there?

18 A. We put our cost figure on that before we
19 agreed upon an agreed charge, and the rate was reduced
20 in competition with similar coal produced, I think, in
21 the Dakotas, I think it was South Dakota; lignite coal is
22 the competition there. Mr. MacPherson may know more
23 about that than I do.

24 Q. Another way to put it, does that return
25 fully distributed costs?

26 A. You mean total costs?

27 Q. Does it return total costs?

28 A. I haven't got the detailed cost figures
29 here. You have me at a disadvantage; there is a lot of
30 detail that otherwise takes a long time to check, and
I have only had this for a few hours.



1
2 Q. I am quite aware of that. Now, just go
3 back to page 5 in the light of framing the question
4 differently. Agricultural implements from Hamilton
5 to Edmonton, which returned you more than 4 cents a
6 ton mile; would you say that that returned you your full
7 cost?

8 A. I would think it would, yes, sir.

9 Q. About twice your full costs?

10 A. In fact, if we had revenues based on
11 4 cents a ton mile I think we would all be in a very
12 happy position.

13 Q. It wouldn't be an exaggeration to say
14 that that would return your full cost several times over?

15 A. Yes, but when you consider the outlay
16 for transportation as compared with probably the selling
17 price to the farmer, you would find transportation a
18 very small portion of the total.

19 Q. All I am putting to you is that you have
20 a free rate structure in which you have to go down to
21 rates almost as low as these much maligned Crow's Nest
22 Pass export rates; that is so, isn't it?

23 A. We have high spot rates and low spot rates;
24 that doesn't say they are not just and reasonable rates.

25 Q. I will talk on that later, but first I
26 want to finish this list and I have only two or three
27 more.

28 On page 1, starting up the page, you have a
29 rate on cast iron pipe from Three Rivers to Vancouver
30 of \$1.10, which returns you on a ton mile basis .721
cents or 7/10th s of a cent per ton mile?



1
2 A. With respect to that rate I am afraid
3 that you should ask our Canadian Pacific friends because
4 we wouldn't handle the business out of Three Rivers;
5 we only go in ---

6 Q. Are you not a party to that CTC (AC), 1957?

7 A. We may be a party to it, yes, sir.

8 Q. I am not sure if you are, but I am just
9 asking.

10 MR. MACDOUGALL: I think he is a silent partner.

11 THE WITNESS: It is my recollection that the
12 recharge also applies there to Toronto.

13 MR. FRAWLEY: Q. Would you look at the
14 rate on iron and steel ingots from Hamilton, Ontario
15 to Sydney, Nova Scotia; the rate is \$12 a long ton,
16 and it earns you, on a ton mile basis, .823 cents,
17 again a little more than 8/10ths of a cent per ton
18 mile?

19 A. But almost double the Crow's Nest grain
20 for the same distance.

21 Q. It is actually earning you 8/10ths of
22 a cent per ton mile?

23 A. And the Crow's Nest ton mile earnings
24 for the same distance is .433 cents.

25 Q. And you think something should be done
26 about the Crow's Nest Pass rates?

27 A. That is our application.

28 Q. But you don't think anything should be
29 done about ---

30 A. No, I don't say that; oh, no, I don't
say that.



1
2 THE CHAIRMAN: Mr. McCoy, as I understand
3 it these examples you are giving now indicate the extent
4 to which there has been internal subsidization in the
5 structure of rates; that is applying the value of ser-
6 vice principle?

7 THE WITNESS: Yes, that is right.

8 THE CHAIRMAN: And keeping in mind the rule
9 of the Board, some were low and some were high?

10 THE WITNESS: That is right, we have both
11 high spot rates and low spot rates. As a matter of
12 fact, if you went through our tariffs and made a de-
13 tailed check of all of them, you would probably find
14 more high spot rates than low.

15 MR. FRAWLEY: Q. Now, in order to describe
16 it, these low rates -- as the Chairman says -- reflect the
17 fact there is internal subsidization in the Canadian
18 freight rate structure?

19 A. That may be, yes.

20 Q. What is the difference between internal
21 subsidies and internal subsidization, if you want to call
22 the Crow's Nest Pass rates that; it is all the same in
23 dollars at the end of the year, isn't it?

24 A. Yes, but we have submitted that we are
25 not getting anything like our costs out of the Crow's
26 Nest grain traffic, that generally we are doing better
27 on other traffic, but on the other hand, if you will
28 bear with me a moment, we are allowed to adjust our
29 other rates upwards as we may have to, and we are not
30 allowed that in the statutory grain rates.

31 Q. Mr. McCoy, if you don't mind my saying so,



1
2 you are not allowed; the hard economic facts in Canada
3 will not permit you to do those things, that is true?

4 A. You never know what you can do until
5 you try.

6 Q. How long have you been trying to make
7 better rates and get more and more revenue for the
8 Canadian National, and doing it well, too?

9 A. Over forty years.

10 Q. Several years, yes. Now, I only have
11 two or three more; three more, that is all.

12 If you will look at page 1 again, wrought pipe
13 from Montreal to Vancouver, the rate is \$1.20 and it
14 returns you .834 cents per ton mile; do you think you
15 are getting your full costs for that just as you were
16 asking for full costs on the export grain rates?

17 A. Whether we are getting our full costs or
18 not I can't say at the moment, but I do know we are
19 getting more than our variable costs.

20 Q. All right. Sure, but you are not
21 getting full costs and you are asking full costs on the
22 Crow rate.

23 A. Mr. Frawley, that may be factual, but on
24 the other hand there is not the same quantity, nothing
25 like the same quantity of wrought iron pipe moving from
26 Montreal to Vancouver as you would have under your
27 statutory rates in the west.

28 In other words, the movement in the west -- I
29 should say the grain moving in the west is basic to your
30 plant, where it is just a few orders here.

Q. So then, if it is only a few orders, and



1
2 the train is going anyway, it doesn't cost anything?

3 A. I don't think you would run any business
4 on that basis.

5 Q. I was wondering how far you would ---

6 A. If we had freedom in all our rates we
7 might make a much better showing.

8 Q. Will you bear with me for two more
9 questions, and that is all. There is a rate on page 1
10 on calcium silicon from Welland to Sydney, Nova Scotia,
11 \$11 per long ton, and you get on that .732 cents?

12 A. Three mills more than we get on the
13 Crow's Nest grain rate.

14 Q. I put it to you with some assurance, Mr.
15 McCoy, that it doesn't give you your full costs as you
16 have asked for them?

17 A. That may be, sir.

18 Q. And there is one final one, iron and
19 steel articles from Montreal to Vancouver, the rate is
20 \$1.20 ---

21 A. I am sorry, sir, what page is that?

22 Q. I am still on page 1.

23 A. Yes.

24 Q. And it returns you .834 cents, a little
25 better than 8/10ths of a cent per ton mile. Do you
26 think that returns you your full costs?

27 A. I haven't got that figure here, sir, but
28 I would like to say for the record that the grain scale
29 for that distance, or the distance of 2878 miles, as
30 shown in the exhibit, is 4.58 cents.

Q. You say these rates of return, like the



1
2 agricultural implements rates, are rates which return
3 full costs plus something.

4 Now, looking at Exhibit 80, or keeping Exhibit
5 80 in front of you, Mr. McCoy, that is Statement A in
6 the 17% Case, and you tell me -- I might as well take
7 the agricultural implement rate which is on page 5 of
8 this statement, which returns 4.041 cents, and if
9 anyone objected to the Board, or to anyone else, or
10 to you that that rate was too high, you would say that
11 it is just a just and reasonable rate and that is the
end of it?

12 A. We would endeavour to our utmost to
13 defend the rate, particularly based upon the value of
14 the commodity. If transportation was really a penalty
15 in respect to the rate, we would probably have a differ-
16 ent view, but we don't believe it to be a penalty.

17 Q. And you say the farmer can afford to pay
18 this kind of freight rate?

19 A. We don't assess the freight rates, we
20 don't assess the price of the farm implements that the
21 farmer pays for; it is done by the dealers, not the
22 railway, and my point is -- and I wish you would bear
23 with me -- if you would take the value, the retail value
24 of some of your farm equipment on which we have assessed
25 rates, an equivalent of 4 cents a ton, or slightly over,
26 and put that against the transportation outlay, you find
that transportation is a very small percentage; much
smaller than the average.

27 Q. And that is why you say you are charging
28 on the principle of the value of the service?



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A. That is right.

Q. Sure.

A. And the very unfortunate part that comes to my mind right now is that we are asked for all of our costs and there is a great deal of data on costs, and I wonder if industry is prepared to give the same information with respect to its costs? In other words, it is a poor rule that doesn't work both ways, and where the railways are going if you have all the information and we tell all the secrets, that is something you ---

Q. Where the railways are going, you are in the hands of this excellent Commission, so let us not -- you and I -- worry too much about that.

A. Mr. Frawley, it is a concern to the railway men, I can assure you of that, but I am not saying that we have not got faith in this Commission.

Q. I am sure you have. When you say that the agricultural implement rate which returns more than 4 cents a ton mile is justified because it is a just and reasonable rate ---

A. And doesn't preclude the movement.

Q. What you say is when you compare that rate with other rates of the like kind and class moving under similar conditions, that the per cent is a favourable one?

A. I would think it is a fair one, yes, sir.

Q. And you say you can't compare that rate, which is a class rate, and a cost competitive or a non-competitive commodity rate; you can't compare that with an agreed charge or a competitive rate; that is



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the accepted practice?

A. I think you will appreciate that we have, as I said before, low rates and relatively high rate, but their rates, to the best of my knowledge, don't restrict movement, and so we are handling it at 2 cents a ton mile; we have no assurance that will be passed on to anybody, we don't know whether it will be passed on to any individual in Alberta.

Q. What I am endeavouring to discuss with you is the justification for the rates which you say are admittedly pretty high, returning 4 cents per ton mile, and you say it is a just and reasonable rate according to the accepted definition of "just and reasonable"?

A. We think so.

Q. The accepted definition of just and reasonable, but you look at that rate compared with other rates of the same kind or category.

A. We can go further than that. We try to make sure it will not preclude the movement of traffic; that it will be fair and allow a fair return to both the shipper and the receiver on the one hand, and the railways on the other.

Q. And when you compare it with other rates of its kind, that the per cent is defensible?

A. We think so.

Q. I put it to you that that is the situation which prompted Mr. Knowles, when he said to the Senate Committee ----

A. Just a moment; I am not accountable for any statement Mr. Knowles made; he can look after himself.



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2 Q. I am sure you don't mean that in any
3 deprecatory sense?

4 A. Oh, definitely not.

5 Q. You are not responsible for what he says
6 any more than I am, but he is a person whom you have
7 some respect for?

8 A. I have a high regard for him.

9 Q. You worked with him for many years?

10 A. He was one of my predecessors.

11 Q. I put it to you that Mr. Knowles shows
12 his concern, as he did before the Senate Committee
13 on Transport on the 17th of June, 1959, at which time
14 he said:

15 "What is worrying everybody today is
16 the way the rate structure is made. Now
17 high rates are charged on high grade materials
18 and low rates on low grade materials, and the
19 higher rates are being loaded by the trucks
20 and the railways are left with low grade
21 articles which are moved at a rate less than
22 the average cost of transportation."
23 Now, that is stating it correctly; that is the fundamen-
24 tal problem?

25 A. May I see that, sir?

26
27
28
29
30 (Page 3246 follows)



1
2 Q. Mr. McCoy, I could give you, just
3 in a word, the background of it. One of the senators
4 was asking why - one of the Maritime senators, I
5 may say - why it cost more to haul an equal quantity
6 of finished steel compared to a quantity of unfinished
7 steel, and what Mr. Knowles there at that part was
8 doing was endeavoring to explain to the senator
9 why that was and what he thought it was leading to.

10 A. Well, this is just a hurried look-see,
11 as far as I am concerned. If I understand what Mr.
12 Knowles is saying here, it is because of motor trucks
13 skimming off the high rate traffic is making it more
14 difficult for the railways to carry on and maintain
15 lower rates. I think you will agree with me that
16 is a fair summary.

17 Q. Don't you think the class rates in
18 Canada are too high now?

19 A. Not necessarily, no, sir; based upon
20 the fact that invariably it is only very high-priced
21 articles moving under class rates.

22 Q. Are you not alarmed at the fact that
23 this 35 per cent in Exhibit 80 that you were frank
24 enough to say to me was probably shrinking - don't
25 you think it is a matter of real concern to the
26 people of Canada that that hard core of class rates
27 and non-competitive rates are shrinking?

28 A. I agree with you, but perhaps we
29 wouldn't have the same problem if column 1 on the
30 exhibit was dealt with. If we were allowed to
free-wheel in column 1 as we do in column 6, it would



1
2 be a different problem entirely.

3 Q. I will put it to you very boldly: if
4 you had everything you have asked for straightened
5 up in connection with the grain rates, would there be
6 nothing wrong then with the freight rate structure?

7 A. Mr. Frawley, we are only human beings,
8 we are not perfect. I am not saying it is a perfect
9 set up. You would have to be a real czar to say
10 you will ship up to a certain point, you will ship
11 by rail at a certain point, and so on. Now, the
12 millennium may not be in my lifetime.

13 Q. I am saying it is a cockeyed rate
14 structure.

15 A. I can assure you I am not going to
16 use that phrase in this room.

17 Q. I put this to you. I discussed with
18 you a moment ago this concept of just and reasonable
19 as a means of testing a rate. I put it to you that
20 with the class rated traffic and non-competitive
21 traffic shrinking more and more every day we
22 are getting past the stage when we can use the
23 just and reasonable concept as we have used it for
24 years and years.

25 A. I wouldn't go that far, because I
26 can't see how we can possibly get away from the value
27 of service principle. In other words, you will not
28 get a motor truck operator who will take a truck
29 load of feathers at the same rate basis as he will
30 take a truck load of canned goods.

Q. If it gets worse and worse and instead



1
2 of asking for three-quarters in the next freight rate
3 increase you will have to ask for 85 per cent from
4 about 20 per cent of the traffic. Do you think we
5 can go on in Canada with that kind of freight rate
6 structure?

7 A. Well, there is always a limit, and
8 we think that the limit is on the Crow's Nest grain.

9 Q. You will go that far; you think it
10 will clear up everything?

11 A. It will be a material help to us.

12 Q. You don't think it will clear up
13 everything?

14 A. No.

15 Q. Mr. McCoy, you know the study that
16 bears the name of J.C. Lessard called Transportation
17 in Canada?

18 A. Yes, I have a superficial knowledge
19 of it.

20 Q. Will you look at page 88? You see
21 the paragraph in the middle of page 89. I will read
22 it to you.

23 "The C.N.R. submission to the Royal

24 Commission on Transportation..."

25 - and I may say for the record that that is exhibit
26 214 before the first Royal Commission on transportation,
27 and the reference is to pages 70 and 71. Now, I
28 will read the paragraph

29 "The C.N.R. submission to the Royal

30 Commission on Transportation, 1951,

indicated that about 25 per cent of



1
2 mileage failed to contribute anything
3 to overhead costs while an additional
4 30 per cent was considered to be marginal.
5 Therefore, virtually all of their over-
6 head costs appear to be recovered from
7 the remaining 45 per cent of operations."

8 Would you have any idea at all of what
9 the situation is as of now, because those words were
10 written, I would say, sometime prior to November,
11 1956, and, of course, it was dealing with the
12 submission of Canadian National in 1950 or 1949.

13 A. Well, I have no up-to-date information
14 on that, sir, I am sorry.

15 Q. Would you think it was any better than
16 that now?

17 A. I would hope it would be, but I
18 can't give you a definite answer on that, I am sorry.

19 Q. But it is a pretty serious situation?

20 A. Yes, sir, the situation is serious.

21 Q. And before the Royal Commission it
22 was all set out in colours indicating where the
23 mileage was, where the 25 per cent was of the mileage
24 which didn't contribute anything to overhead costs,
25 and where the 30 per cent was it was marginal, and
26 where the 45 per cent was, and when you look at the
27 Canadian National picture I find that I have some -
28 probably an error of some kind, Mr. Chairman - I find
29 I have two of these, and I will certainly be very
30 glad to hand that up to the Commission.

Now, that undoubtedly ---



1
2 A. Mr. Frawley, would you mind letting
3 me see that, please?

4 MR. MACDOUGALL: Is this something
5 prepared by Mr. McCoy at that time?

6 THE WITNESS: No, not by me.

7 MR. FRAWLEY: Probably not by Mr. McCoy.

8 Q. In any event, that just tells the
9 story of the lines that are profitable and the lines
10 that are not profitable. That is just proof of the
11 fact that there is a great deal wrong with the
12 Canadian rate structure besides the export grain
rates.

13 A. I wouldn't say---

14 THE CHAIRMAN: Mr. Macdougall, there has
15 been no map prepared on this basis?

16 MR. MACDOUGALL: Nothing has been presented
17 to the Commission yet of that nature.

18 THE CHAIRMAN: Have you any ideas on that?

19 MR. MACDOUGALL: We have a number of ideas
20 which we intend to put before the Commission when
21 we make our submission. I can't tell you at this
22 moment in exact detail what will be in that submission.

23 MR. FRAWLEY: To round out the picture,
24 I could say that Exhibit 191 in the first Turgeon
25 Commission was a similar map prepared. So it is
26 for the Commission to say whether they would like
that reproduced. I don't know what it will show
at all.

27 THE WITNESS: For the record, this is
28 for the year 1948, freight traffic density in thousand



1
2 gross ton-miles. The exhibit is dated October 15th,
3 1949.

4 MR. FRAWLEY Q: Mr. McCoy, I suppose it
5 follows that the losses suffered in the passenger
6 department are just as real lost dollars as the
7 dollars which you say you lose in connection with
8 export grain?

9 A. If there is any loss at any time,
10 naturally the dollar content will be the same. But
11 I am not qualified to discuss passenger matters, I
12 am sorry.

13 Q. And if it is incumbent upon you and
14 upon the Canadian National Railway in the interests
15 of Canada and the maintenance of strong Atlantic
16 ports that you should haul goods to the east coast
17 at rates which are in the general area of the Crow's
18 Nest Pass rates on a ton-mile basis, why isn't there
19 just as much justification as regarding that as
20 something that should be cured by the national
21 treasury.

22 A. We are looking at these rates, we
23 are studying them, and when we have completed our
24 studies we will be in a better position to speak on
25 the matter with you, Mr. Frawley.

26 Q. Every time I say that I am inviting
27 some Maritime shipper or receiver to become
28 frightened. As far as you have them, and if you
29 have any economic compulsion to keep them there,
30 why don't you look upon them under the same light
and under the same microscope ---



1
2 A. Maybe we do.

3 MR. MACDOUGALL: Perhaps you could say
4 if they have been increased.

5 THE WITNESS: Yes, they certainly have.
6 They have been adjusted from the rates from Buffalo,
7 New York.

8 MR. FRAWLEY Q: Depending on the
9 accuracy ---

10 A. You are talking about ton-miles one-
11 way, sir?

12 Q. That is right.

13 A. But all I am trying to say is that
14 we try to move the rates up and down. We have not
15 the same privilege ---

16 Q. The compulsion is just as strong; one
17 is by statute and the other is by the various economic
18 forces in Canada?

19 A. Not as strong. I am not trying to
20 argue with you; don't misunderstand me.

21 Q. I would like to offer a statement,
22 Mr. McCoy. Sometimes I have been accused in the
23 past that this is a sort of inexpensive way of
24 my proving my case. I don't want to be accused of
25 that. This is a statement, Mr. McCoy, which I
26 would like to show to you, and it is a statement,
27 the heading of which says: "Statement Comparing
28 Agreed Charges Freight Rates from Eastern Canada to
29 Vancouver with rates to Calgary and Edmonton on the
30 same Commodities as of December 29th, 1959".

THE CHAIRMAN: This has to do with the



1
2 one and one-third rule?

3 MR. FRAWLEY: Yes, the late lamented one
4 and one-third.

5 THE WITNESS: I wouldn't say "lamented".

6 MR. COOPER: Have you an extra copy for
7 the use of the Commission?

8 MR. FRAWLEY: I can get more of these.

9 THE CHAIRMAN: While Mr. Frawley is doing
10 that, we will adjourn now.

11 ---Short Recess.

12 MR. FRAWLEY Q: Mr. McCoy, you have had
13 a chance to peruse the statement that I showed you
14 just before the recess.

15 A. I have had an opportunity to look
16 through it.

17 MR. FRAWLEY: These are taken from the
18 Commission. I have to get more copies. They
19 sent me from Edmonton about seven or eight. I can
20 easily get a great many more.

21 MR. SINCLAIR: Fine; that is completely
22 satisfactory.

23 MR. FRAWLEY Q: You have seen that
24 statement, Mr. McCoy? Does it appear to you to
25 correctly state the rate comparison that it aims
26 to show?

27 A. Well, without making a check I would
28 not want to make a firm statement, but if what you
29 have in mind generally is that the rates to Vancouver
30 are lower than they are to intermediate points,



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2 Edmonton and Calgary, I would say that is a correct
3 statement.

4 Q. Would you say that the statement as
5 you have looked at it, and subject to check as to
6 the accuracy of the tariff references and the
7 extractions from the tariffs, is a correct statement?

8 A. It may be. I wouldn't want to
9 make a firm statement.

10 MR. FRAWLEY: I would like to offer it ---

11 THE CHAIRMAN: You are filing it?

12 MR. FRAWLEY: I would like to offer it as
13 an exhibit, yes.

14 MR. COOPER: Exhibit 81, Mr. Chairman.

15 EXHIBIT NO. 81 - Statement comparing
16 agreed charges freight
17 rates from eastern
18 Canada to Vancouver with
19 rates to Calgary and
20 Edmonton on the same
21 commodities as of
22 December 29th, 1959.

23 MR. MACDOUGALL: I don't think we will take
24 any objections to Mr. Frawley filing this as an
25 exhibit, but he is filing it as a correct exhibit
26 subject to someone else saying it is or is not a
27 correct statement. But I have no objection to him
28 putting it in.

29 THE CHAIRMAN: I think it being offered,
30 and if it is found correct by Mr. McCoy, it should
then be filed.

MR. FRAWLEY: Yes, a very practical way
to dispose of it would be to put the rate clerk who
prepared it on the stand to say how he did it.



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2 THE CHAIRMAN: Well, we want to save time.
3 MR. FRAWLEY: That concludes my cross-
4 examination.

5 THE CHAIRMAN: I think we should state that
6 on the western trip we had planned to leave Edmonton
7 on Thursday night and get into Victoria on Friday.
8 Well, now, the hours are so inconvenient that that
9 has been changed, so that we leave Edmonton on Friday
10 and commence in Victoria on Monday. So we will be
11 in Victoria on Monday at 9:30.

12 Any other cross-examination of Mr. McCoy?

13 MR. COOPER: I believe that Mr. Blair was
14 to be here at 2:00 o'clock.

15 THE CHAIRMAN: Will that be all right?

16 THE WITNESS: Yes, sir.

17 THE CHAIRMAN: Anybody else?

18 MR. MACDOUGALL: I think, Mr. Chairman, if
19 it pleases the Commission, there might be a few
20 questions in re-examination following Mr. Blair.
21 Perhaps the Commission would hear Mr. Roberts, the
22 next witness, now, and break his testimony at 2:00
23 o'clock in order for Mr. McCoy to have cross-
24 examinations by Mr. Blair and the re-examination.

25 THE CHAIRMAN: Perhaps the Commission itself
26 has some questions.

27 MR. MACDOUGALL: If I may suggest, sir,
28 perhaps that may be more appropriate after Mr. Blair's
29 cross-examination.

30 THE CHAIRMAN: That is all right.

MR. MACDOUGALL: Mr. Chairman, perhaps before



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2 Mr. Sinclair begins, yesterday someone asked Canadian
3 National if they would submit a copy of the so-called
4 Crow's Nest scale. I had copies prepared of the
5 point to point rates for the Crow's Nest grain traffic
6 made up in a scale form which I would be glad to file
7 with the Commission now. Could that be marked as an
8 exhibit?

9 THE CHAIRMAN: Who asked for that?

10 MR. COOPER: I did, Mr. Chairman.

11 THE CHAIRMAN: Exhibit 82.

12 EXHIBIT NO. 82 - Canadian National
13 Railways. Grain rates
14 to Fort William.
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2 ROBERTS, JAMES MERRICK, called

3 MR. SINCLAIR: Mr. Chairman and members of
4 the Commission, the next witness on behalf of the
5 railways is Mr. J.M. Roberts, who has had the privilege
6 of answering questions to some of the people in this
7 room on other occasions.

8 With the Commission's permission I might
9 read Mr. Roberts' qualifications outlined into the
10 record and his background and ask him if that is
11 correct. May I do that, sir, rather than examine him
12 down through the various points?

13 THE CHAIRMAN: Yes.

14 MR. SINCLAIR: Mr. Roberts attended Ashton
15 Old Road School in Manchester, and on his coming to
16 Canada he joined the Canadian Pacific Railway Company
17 in 1923 as a junior clerk in the Traffic Department.
18 Between 1925 and 1948 he held various clerical positions
19 in the Traffic Department at Winnipeg. In March of
20 1948 he was appointed the Chief Clerk to the Freight
21 Traffic Manager at Winnipeg. In 1950 he was promoted
22 and became Assistant General Freight Agent at
23 Vancouver. In 1952 he became the General Freight
24 Agent at Montreal; in 1954 the Assistant Freight
25 Traffic Manager; in 1956 Assistant Freight Traffic
26 Manager, of Rates and Divisions; in 1957 Assistant
27 General Traffic Manager; in 1958 Assistant General
28 Traffic Manager; and last September he was promoted
29 to his present position with Canadian Pacific,
30 General Traffic Manager for the Canadian Pacific
system.



1
2 Throughout Mr. Roberts' work with the
3 company he has been largely concerned, particularly
4 concerned with rates, their development and meeting
5 the needs of the shippers in regard to rates and
6 discussing problems with shippers in that regard.

7 THE CHAIRMAN: I think, Mr. Sinclair,
8 before you go further, I would like to congratulate
9 Mr. Roberts on his promotion, and I feel that he
10 earned it.

11 THE WITNESS: Thank you very much, sir.

12 THE CHAIRMAN: The only thing that
13 embarrasses me is that I see Mr. Edsforth there. Has
14 he been demoted?

15 MR. SINCLAIR: Well, it is one of the
16 advantages of counsel at times to meet someone like
17 Mr. Edsforth. It gives us a great deal of
18 satisfaction to have him in a place where we used to
19 see him many years ago.

20 Mr. Roberts has appeared before the Board
21 of Transport Commissioners on rate problems;
22 particularly has his interest been great in connection
23 with various general revenue and specific rate
24 cases ---

25 THE CHAIRMAN: And I know he has experience
26 of the whole system.

27 MR. SINCLAIR: That is right, sir.
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2 MR. SINCLAIR: That is right. And he has
3 also been the traffic advisor to counsel and has
4 given opinions on traffic matters in labour matters
5 in conciliation and arbitration proceedings, and has
6 also been one of the Canadian Pacific group before,
7 dealing with specific problems in developing
8 material in regard to other public Hearings and
9 appearances before the Cabinet, and matters of that
10 kind.

11 DIRECT EXAMINATION BY MR. SINCLAIR:

12 Q. Now, Mr. Roberts, does what I have
13 told the Commission generally outline your career
14 with the Canadian Pacific and your experience in
15 rate matters?

16 A. Yes, it does, Mr. Sinclair.

17 MR. SINCLAIR: Now, Mr. Chairman, members
18 of the Commission, Mr. Roberts has prepared a precis
19 of the evidence that he was to give to the Commission,
20 and this has been in the hands of my friends for
21 many weeks. And attached to that were a number of
22 statements, and I would like to file these statements
23 as exhibits, with your permission.

24 THE CHAIRMAN: You are not filing your
25 precis at all?

26 MR. SINCLAIR: No, sir.

27 The first of the statements is designated
28 in the lower righthand corner as number 300 and is
29 entitled "Comparison of Crow's Nest Rates on Grain
30 to Fort William with applicable class rates on
September 1, 1899". Exhibit 83, with your permission,



1
2 Mr. Chairman.

3 EXHIBIT NO. 83: Statement entitled
4 "Comparison of Crow's
5 Nest Rates on Grain to
6 Fort William with
7 Applicable Class Rates on
8 September 1, 1899"

9 MR. SINCLAIR: The second statement,
10 designated number 301 in the lower righthand corner,
11 and entitled "Comparison of Crow's Nest Rates on Grain
12 to Fort William and Applicable Class Rates on September
13 12, 1927". Exhibit 84, with your permission, Mr.
14 Chairman.

15 EXHIBIT NO. 84: Statement entitled
16 "Comparison of Crow's Nest
17 Rates on Grain to Fort
18 William and Applicable
19 Class Rates on September
20 12, 1927."

21 MR. SINCLAIR: The third and last statement
22 attached to the precis, which was designated Statement
23 number 302 in the lower righthand corner, and entitled
24 "Statement Showing Rates on Wheat from Points in
25 Western United States to Duluth, Minnesota and
26 Seattle, Washington versus Rates from Equi Distant
27 Shipment Points in Western Canada from Fort William
28 and Vancouver, British Columbia, on December 12, 1927
29 and at Present". With your permission, Mr. Chairman,
30 Exhibit No. 85.

31 EXHIBIT NO. 85: Statement No. 302
32 entitled "Statement
33 Showing Rates on Wheat
34 from Points in Western
35 United States to Duluth,
36 Minnesota and Seattle,
37 Washington versus Rates
38 from Equi Distant
39 Shipment Points in



Western Canada from Fort William and Vancouver, British Columbia, on December 12, 1927 and at Present".

MR. SINCLAIR Q: These statements are now Exhibits 83, 84 and 85, Mr. Roberts, in the proceedings. Were they prepared by you or under your direction?

A. They were prepared under my direction, sir.

Q. And can you say to the Commission as to their accuracy?

A. I would say, sir, that they are accurate to the best of my knowledge and ability.

Q. Thank you.

The precis of Mr. Roberts -- the evidence he will now give -- deals with "The Principals of Railway Rate Making", which is section III of the Joint Submission of the Railways, as filed with this Commission, and being Exhibit No. 45; and also with the "Level Rates for the Movement of Export Grain in Western Canada which would be Just and Reasonable and Reasons Therefor", in support of section VIII of the Canadian Pacific submission, as signed and filed by counsel, being Exhibit No. 47.

Now, as the Commission knows, the railways in regard to rate making are governed in their various operations by the Railway Act of Canada.

Mr. Roberts, in regard to rates, what is the basic provision of the Railway Act?



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2 A. Section 326 (1) of the Railway Act
3 authorizes companies to prepare and issue tariffs
4 of the tolls to be charged in respect of the railway
5 owned or operated by the companies.

6 THE CHAIRMAN: I think we have all read
7 that, Mr. Sinclair.

8 MR. SINCLAIR: I would like to have it
9 taken into the record, Mr. Chairman -- not section
10 326 (1), but in particular Section 326 (5).

11 "No tolls shall be charged by the
12 company or by any person in respect of
13 a railway or any traffic thereon until
14 a by-law authorizing the preparation and
15 issue of tariffs of such tolls has been
16 approved by the Board, nor, unless
17 otherwise authorized by this Act, until a
18 tariff of such tolls has been filed with,
19 and, where such approval is required under
20 this Act, approved by, the Board, nor
21 until any other requirements necessary
22 under this Act to bring such tariff into
23 effect have been complied with; nor shall
24 any tolls be charged under any tariff
25 or portion thereof disallowed by the
26 Board, or not in effect in accordance
27 with the provisions of this Act; nor shall
28 the company charge, levy or collect any
29 toll or money for any service as a common
30 carrier except under and in accordance with
the provisions of this Act."



1
2 MR. SINCLAIR Q: Having 326(5) before you,
3 Mr. Roberts, would you please comment on that:

4 A. The Railway Act, under Section 328(5)
5 invests the Board with powers "...to fix, determine and
6 enforce just and reasonable rates, and to change and
7 alter rates as changing conditions or cost of trans-
8 portation may from time to time require..." and under
9 Section 328(1): "The Board may disallow any tariff or
10 any portion thereof that is considers to be unjust or
11 unreasonable, or contrary to any of the provisions of
12 this Act, and may require the company, within a
13 prescribed time, to substitute a tariff satisfactory to
14 the Board in lieu thereof, or may prescribe other tolls
15 in lieu of the tolls so disallowed."

16 Q. Mr. Roberts, how far does the authority
17 of the Board extend in the matter of freight rates in Canada

18 A. The authority of the Board, Mr. Sinclair,
19 extends to all freight rates in Canada with the
20 exception of the statutory rates on grain and grain
21 products moving to export position in Western Canada
22 which are removed from the jurisdiction of the Board
23 by Section 328 (6) and (7).

24 Q. Subsection 6 and 7 of Section 328 of
25 the Railway Act?

26 A. Yes, sir.

27 Q. What do you mean by "Removed from the
28 jurisdiction of the Board", Mr. Roberts?

29 A. Well, Mr. Sinclair, they are removed
30 from the jurisdiction of the Board in fixing just and
reasonable level of rates.



1
2 Q. Would you continue with your
3 explanation of the Board's authority, then, in regard
4 to freight rates?

5 A. The Railway Act provides the framework
6 under which railway companies are required to establish
7 freight rates. Just and reasonable rates under the
8 Act must be rates which are just and reasonable both to
9 the railways and the shipping public.

10 Railways, in addition to the usual economic
11 controls affecting all businesses, are subject to
12 direct regulation under the Railway Act, and to control
13 and supervision by the Board of Transport Commissioners
14 in setting freight rates (whether general or specific).
15 The Board can change and alter the general rate level,
16 such as in a general revenue case, and also has the
17 responsibility of maintaining supervision over the
18 many individual rates which are constantly being
19 negotiated and published.

20 Excluding the statutory rates on grain and
21 grain products which have remained fixed since 1927,
22 basic principles establish the range of rate levels.

23 Q. What are the basic principles, Mr.
24 Roberts?

25 A. The basic objective of railway rate
26 making is to set rates at a level which will permit
27 the maximum amount of traffic to move freely and at
28 the same time permit the railways to earn maximum net
29 revenue so as to maintain an efficient railway
30 operation and provide a fair return on the capital
invested.



1
2 Q. Yes?

3 A. In all rates the value of the service
4 to the shipper or consumer establishes an upper limit,
5 as indicated by the ability of the traffic to pay the
6 proposed rates and still move at optimum volume. By
7 this is meant that the demand for the goods at the
8 point of destination will be such that the cost of
9 transportation when added to the other costs involved,
10 will support a traffic level as near to the maximum
11 as possible. This is subject to an overall limit
12 in that rates on all the traffic must not result in
13 total net revenue beyond a reasonable level. This
14 reasonable level is equivalent to a fair return on
15 the railway investment without, of course, any
16 guarantee that the railway company will at any given
17 level of rates be able to achieve such a reasonable
18 level of net revenue.
19
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21

22 (Page 3274 follows)
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1
2 Q. Now, you spoke of the upper limit;
3 what determines the lower limit, Mr. Roberts?

4 A. The lower limit of the range of rates
5 is fixed by the need on the part of the carrier to have
6 rates at a level no lower than the variable cost of
7 providing the service in respect to any individual
8 segment of traffic and which will, in addition, make
9 some fair contribution to constant costs.

10 Q. What factors are taken into account
11 in determining the proportion for variable costs?

12 A. Between the upper and lower limits
13 of the range, ~~the~~ railways, in publishing rates on the
14 many commodities which are shipped daily, must
15 necessarily take into consideration factors such as
16 competition by other forms of transportation and
17 commodity market conditions reflecting the competition
18 of foreign goods. Competition between Canadian
19 industries for a common market can only be recognized
20 as a factor in rate making to the extent that rate
21 groupings are a part of the rate structure. This is
22 because it is not the function of railway freight rates
23 to offset geographical or other disadvantages of
24 industries or areas. We also take in account the
25 effect of competition on substitute products.

26 Q. When you say that, Mr. Roberts, that
27 you can't offset or equalize geographical or other
28 disadvantages, why do you say that?

29 A. Well, that would be unjust, sir,
30 under the meaning of the Railway Act.

Q. We will discuss that a little further



1
2 on. Now, would you continue with your explanation
3 of the basic principles and considerations of the
4 freight rate structure.

5 A. These are the basic principles and
6 considerations from which the freight rate structure
7 has evolved. This structure has contributed to the
8 growth of industry in Canada, even though the structure
9 has been distorted by the fact that grain and grain
10 products moving to export positions in Western Canada
11 are transported at rates which do not reflect the
12 principles of rate making because they have remained
13 at the level fixed by statute many years ago.

14 Q. Mr. Chairman and members of the
15 Commission, I will now discuss with Mr. Roberts the
16 Canadian freight classification. What is the
17 foundation of the freight structure in Canada, Mr.
18 Roberts?

19 A. The foundation of the rail freight
20 structure in Canada is the Canadian Freight
21 Classification, which establishes, with the Board's
22 approval, relationships between all commodities
23 offered for movement by rail. This is a uniform
24 Classification applicable on all railways throughout
25 Canada. The relationships take into account the
26 principal characteristics of the individual commodities
27 and other elements affecting cost of transportation,
28 as well as their value as a measure of their ability
29 to pay transportation charges without losing freedom
30 to move to market.

MR. SINCLAIR: Mr. Chairman and members of



1
2 of the Commission, the Canadian Freight Classification
3 is published by direction and under the authority of
4 Section 325 of the Railway Act:

5 "325(1) The Tariffs of tolls for freight traffic
6 shall be subject to and governed by that
7 classification which the Board may prescribe
8 or authorize, and the Board shall endeavour
9 to have such classification uniform
10 throughout Canada, as far as may be, having
11 due regard to all proper interests.

12 (2) The Board may make any special regulations,
13 terms and conditions or order or direction
14 in connection with such classification, and
15 as to the carriage of any particular commodity
16 or commodities mentioned therein, as ~~to it~~
may seem expedient.

17 (3) The company may, from time to time, with the
18 approval of the Board, and shall, when so
19 directed by the Board, place any goods
20 specified by the Board in any stated class,
21 or remove them from any one class to any
22 other, higher or lower, class; but no
23 goods shall be removed from a lower to a
24 higher class until such notice as the
25 Board determines has been given in the
Canada Gazette."

26 MR. SINCLAIR Q: Mr. Roberts, in constructing
27 the Classification and establishing the relationships
28 between the commodities, what factors are taken into
29
30



1
2 account?

3 A. The various factors which are weighed
4 in allocating a rating to any particular commodity.

5 Q. Would you discuss the more important
6 of those factors; what would be the first?

7 A. The first would be the value of the
8 goods.

9 Q. What would you say about that as a
10 factor?

11 A. The value of the goods must at all
12 times be borne in mind in relation to ability of any
13 traffic to pay transportation charges. For example,
14 on an article of high value in relation to weight
15 or size, such as a refrigerator, the transportation
16 cost would only be a very small fraction of the market
17 value, but on a heavy commodity such as gravel, which
18 has a low market value in relation to weight,
19 transportation costs represent a much larger proportion
20 of the market price. This feature must receive
21 consideration in determining the rating allocated to
22 each commodity. This requires the application of
23 experienced judgment so as to maximize volume and net
24 revenue.

25 Q. What would you say the second major
26 factor is which would be taken into account in
27 determining relationships in the foundation of the
28 structure of the Canadian classification?

29 A. Loading characteristics. Rates
30 are based on a unit of weight in relation to bulk.
An example of this is new furniture which by nature



1
2 of its construction cannot be loaded heavily in a
3 railway car so that the minimum carload weight is set
4 at 14,000 lbs., with a higher rating than say canned
5 goods, which when packed for shipment are relatively
6 heavy in relation to bulk and are subject to a minimum
7 carload weight of 30,000 lbs.

8 Q. Yes, and the next factor.

9 A. The next factor is the type of
10 equipment necessary. When special equipment is
11 necessary to handle a particular commodity all
12 additional costs related thereto are given consideration.
13 Such costs would arise from the additional cost of
14 the equipment; special maintenance costs; degree
15 of usage and greater empty mileage required to return
16 empty special equipment to shipping points.

17 Q. Now, would you summarize some of
18 the other factors that are taken into account in
19 determining the relationships in the classification?

20 A. Other factors which have to be taken
21 into consideration are susceptibility of the freight
22 to damage; whether it is perishable; the type of
23 packaging; the likelihood of the commodity
24 contaminating other goods or railway equipment; and
25 if there is inherent danger in handling or transporting
26 due to the nature of the goods, as in the case of
27 explosives. These factors have a direct bearing
28 on the railway costs, including cost of claims as
29 a result of damage or deterioration of the goods in
30 transit.

Q. Now, I wish to discuss with you, Mr.



Roberts, for the Commission, the classification ratings as found in the freight classification.

A. The Canadian Freight Classification, prior to 1955, provided ten different basic ratings designated as classes one to ten. In Board of Transport Commissioners Order No. 80410, December 12, 1952, implemented under Order No. 83242, March 1, 1954, the Board directed that the Classification ratings be revised to correspond with the class rates under the proposed uniform class rates scale. Order No. 80410 did not stipulate percentages for the then existing classes seven and ten but such a provision was made in Order No. 83242, March 1, 1954.

The ratings prescribed by the Board in these Orders, together with the equivalent ratings existing prior to March, 1955, are:

<u>Prior to March, 1955</u>		<u>Effective March 1st, 1955</u> <u>(Uniform Class Rate Scale)</u>
<u>Class</u>		<u>Column</u>
1		100
2		85
3		70
4		55
5		45
6		40
7		33
8		30
9		discontinued
10		27

Each column rating represents an equivalent percentage of column 100.

Q. The tabulation shows for old 9th class under the new classification ratings, the word "discontinued"; why was the old 9th class abandoned?



1
2 A. The old 9th class applied only on
3 livestock in carloads. The greater proportion of this
4 traffic, however, moved under long established commodity
5 rates, and the Board in 1955 directed that the ratings
6 on horses, mules and ponies should in future be Column
7 40, equivalent to the old class 6, and on cattle,
8 calves, sheep and hogs, column 33, equivalent to the
9 old class 7, which class rates were subsequently
10 substituted for the commodity mileage rates.

11 Q. Now, what traffic are the first three
12 column readings applicable to, Mr. Roberts; that is,
13 column 100, column 85 and column 70?

14 A. The first three column ratings
15 generally apply to less carload shipments of all
16 the commodities named in the Classification and to
17 carload lots of certain commodities of high value
18 and light loading characteristics.

19 Q. Mr. Roberts, column 100 and column 85
20 and column 70, are they used for both LCL and carload
21 traffic?

22 A. Yes they are, Mr. Sinclair; the study
23 for 1958 indicates that they are used for carload
24 traffic; there would be such items as automobiles,
25 boats and canoes, expensive types of glass and
26 carpets there, yes sir.

27 Q. Now, do I take it from that that you
28 are saying that their very light loading and very
29 high value shipped in carloads may find their way into
30 column ratings of 100, 85 or 70, is that it?

31 A. That is right, Mr. Sinclair.



1
2 Q. Are there multiples of column 100
3 on any of these?

4 A. Explosives are multiples of column
5 100, Mr. Sinclair.

6 THE CHAIRMAN: The old silk trains are
7 off now?

8 MR. SINCLAIR: Yes, they haven't run ---

9 THE WITNES: Since before the war, the
10 last war.

11 MR. SINCLAIR Q: What about the other
12 carload traffic, that is, the large bulk carload
13 traffic other than those ones you have spoken to
14 which take ratings of 100, 85 and 70, and some
15 multiples of 100; what about them?

16 A. Ratings covering carload consignments
17 generally range from column 55 on commodities such
18 as new furniture, which has a high value per ton,
19 is light loading and susceptible to damage, down to
20 column 27 which applies on such materials as coal and
21 lumber, which, by their very nature, can be loaded
22 heavily, are less susceptible to damage and have a
23 lower value per ton.

24 Q. From your answer before, column rating
25 27 would be 27 per cent of column 100?

26 A. Yes.

27 Q. Well now, how did the classification
28 develop, Mr. Roberts, and what does it basically
29 contain?

30 A. The Canadian Freight Classification
has been developed over many years through negotiation



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2 between the railways and industry, shipper organizations
3 and other interested parties. In addition to providing
4 ratings on all of the commodities which move in freight
5 transportation, the Classification also contains rules
6 and regulations which govern the handling of freight
7 by rail. There are over forty rules dealing with
8 such matters as packing requirements and numerous other
9 conditions peculiar to rail freight transportation.
10 The Classification is changed and amended as new
11 materials are developed or transportation conditions
12 change. All changes made in the Classification are
13 subject to the prior approval of the Board of
14 Transport Commissioners.

15 Q. Mr. Roberts, the Board of Transport
16 Commissioners in what is generally known as the first
17 equalization judgment, which is reported in 1952, 69
18 CRTC, 306, dealt with the revision of the classification.
19 Would you summarize that, please?

20 A. Yes, Mr. Sinclair. The railways
21 established a Classification Revision Committee headed
22 by two senior Freight Traffic Officers who had wide
23 experience in all aspects of rate making. This
24 Committee, over a period of two years, thoroughly
25 investigated classification methods in other countries
26 and held many meetings with industry, shipper
27 organizations and other interested parties during the
28 course of which all commodities were evaluated, using
29 the factors outlined above. During all this period the
30 Board was kept informed of progress being made. The
present issue of the Classification became effective



1
2 March 1, 1955, following approval by the Board of
3 Transport Commissioners and concurrently with the
4 uniform class rate scale prescribed by the Board.

5 Q. Mr. Roberts, does the Board exercise
6 much interest in the classification and its control
7 on classification matters?

8 A. Oh, yes sir. The Board is vitally
9 interested in the classification which is evidenced
10 by the fact that before a new ^{product} settlement is issued
11 to the classification it has to be submitted to the
12 Board in ^{product} brief form for approval.

13 Q. And do the Boards have specialists,
14 traffic specialists, who are constantly engaged in
15 considerations of matters that affect the
16 classification?

17 A. They most certainly do, Mr. Sinclair.
18 I would say one of the most able men in the country
19 is a sepcialist.

20 Q. Is he with the Board staff?

21 A. Yes.
22
23

24 (Page 3290 follows)
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2 Q. And are these specialists available for
3 discussion with shippers who may have classification
4 problems, the Board's staff?

5 A. At all times, sir; at all times.

6 THE CHAIRMAN: Mr. Sinclair knows one of
7 the staff is with the Commission.

8 MR. SINCLAIR: Yes. I thank you, sir, for
9 bringing that to my attention.

10 THE CHAIRMAN: That is for the record.

11 MR. SINCLAIR: And we in the railways may say,
12 sir, that we are most happy that Mr. Ellicott is there,
13 and I am sure he is going to be of tremendous assis-
14 tance to the Commission and a great help to everyone
15 in the consideration of the problems in which he has
16 been so long engaged.

17 THE CHAIRMAN: We hoped he would be, other-
18 wise we wouldn't have him here

19 MR. SINCLAIR: Thank you, sir. I just
20 thought that since there was the opportunity of working
21 with Mr. Ellicott, I am glad we have the opportunity
22 of making note of that on the record.

23 Q. Now, would you please, Mr. Roberts, dis-
24 cuss class rates?

25 A. In evolving a freight rate structure,
26 the basic rates are the class rates which are pre-
27 scribed by the Board as just and reasonable rates and
28 are the ceiling which may not be exceeded without
29 approval of the Board. These rates are used in
30 conjunction with the Classification to arrive at
transportation charges on the movement of freight



1
2 traffic generally.

3 The class rates now in use on all railways
4 under the jurisdiction of the Board are the uniform class
5 rates prescribed by the Board following equalization
6 proceedings and which are the same in relation to
7 mileage in all territories in Canada west of the
8 "select" territory as defined in the Maritime Freight
9 Rates Act, that is, west of Diamond Junction, Boundary
or Levis, Quebec.

10 These class rates are the culmination of a
11 process of evolution which has been going on ever since
12 the class rates were first established, and result
13 from Order in Council P.C. 1487, dated April 7,
14 1948, and the 1951 amendments to the Railway Act,
15 particularly Section 336, whereim the Board was
16 directed to make a general investigation of freight
17 rates with a view to establishing a uniform scale
18 of mileage class rates throughout Canada. The
19 investigation was lengthy and in November, 1953, pre-
20 ceding the completion, the Board took an interim step
21 toward equalization by directing that the class rates
22 in Eastern Canada should be increased 10 per cent
and the class rates in Western Canada reduced 5 per
cent.

23 The proceedings on equalization of class
24 rates culminated in the issuance of Order No. 83242,
25 March 1, 1954, prescribing a uniform scale of
26 mileage class rates for application between points
27 in Canada (Diamond Junction, Boundary, Levis, Quebec,
28 and west thereof). The rates were published and
29 became effective March 1, 1955. The Maritime Provinces,
30



1
2 at their request, were exempted from freight rate
3 equalization in general by virtue of Section 336(4)
4 of the Railway Act, which is the section dealing with
5 equalization.

6 Q. If the equalized class rates had been
7 applicable in the Maritime Provinces, would the re-
8 sult have been to increase the rates?

9 A. Well, yes, sir, because the equalized
10 scale under the terms of the Railway Act would have
11 meant the same rate mile for mile throughout Canada,
12 and that is not the case at the present time in so
13 far as traffic to and from the Maritimes is con-
14 cerned. They are made up by the use of arbitraries
15 ~~over the use~~ at Montreal.

16 Q. And that was the specific request of
17 the Maritimes to be left in that position?

18 A. Yes.

19 Q. And it is recognized by statute?

20 A. Yes, it is recognized in Section 336(4).

21 Q. That is what you are referring to in
22 your testimony?

23 A. Yes.

24 Q. Would you please discuss normal com-
25 modity rates as they are known in freight traffic rate
26 circles dealing with general and specific commodity
27 rates?

28 A. The majority of the traffic carried
29 by the railways requires rates lower than the class rate
30 to permit it to move freely. To encourage the
maximum movement of these goods for the mutual benefit



1
2 of industry and the railways, there have been estab-
3 lished over the years many of these rates, which are
4 known as normal commodity rates.

5 Normal commodity rates of general application
6 are arrived at by determining the level generally
7 necessary to permit free movement of the traffic and
8 with relation to the level of the class rates which
9 apply under the Classification rating. In this way
10 the commodity rates give effect to the various factors
11 used in allocating ratings in the Classification as
12 well as the special needs of the producers, while at
13 the same time maintaining uniformity of treatment.
14 This approach is recognized by the Board as stated at
15 page 9 of the Interim Report to the Governor in Council
16 on Equalization of Freight Rates, dated March 25,
17 1955:

18 "Even 'commodity' rates must be condi-
19 tioned upon the classification to a large
20 extent; the 'class' in which an article is
21 established in the freight classification
22 indicates its general relationship to other
23 commodities and what place it should reason-
24 ably occupy in the 'commodity' tariffs;
25 moreover the rules and conditions of carriage
26 relating to all articles and commodities are
27 contained in the freight classification."

28 Q. Now, Mr. Roberts, as to the commodity
29 rates that you have been discussing, are they mileage
30 rates?

A. Well, basically, Mr. Sinclair, they are



1
2 mileage rates. They are all related to mileage, and
3 they are published as mileage, but some are published
4 as specific, that is, point to point.

5 Q. What is the basis, then, where you depart
6 from the mileage rates and the commodity rates and
7 you go to the specific? What becomes the basis then,
8 on the point to point rate?

9 A. Well, they are still related to mileage.

10 Q. They are still related to mileage whether
11 they are point to point or general?

12 A. That is correct, sir.

13 Q. And when you are determining a specific
14 commodity rate, what is the factor that results in it
15 being published rather than staying with the straight
16 mileage rates of normal commodity rates?

17 A. Well, mileage is a factor, but then there
18 are other considerations.

19 In determining normal commodity rates for
20 specific movements between particular points, the cir-
21 cumstances are analyzed in relation to the particular
22 movement and the rates are set at a level designed
23 to permit the maximum possible movement of the traffic.
24 In establishing specific commodity rates, full weight
25 is given to the length of haul and such special
26 considerations as may be found to prevail in addi-
27 tion to the factors which enter into the establishment
28 of mileage or general commodity rates.

29 In making commodity rates, whether general in
30 application or specific point to point, the railways
endeavour to establish a level which will encourage the



1
2 maximum movement of traffic with the maximum net
3 return to the railways. The level is not set arbi-
4 trarily by the railways but is only determined after
5 negotiation with the shippers when all phases of the
6 problem are considered. If a shipper is not satisfied,
7 he can lodge a complaint with the Board and obtain a
8 ruling as to what a just and reasonable rate should be.

9 Q. Do you have many shippers after your
10 negotiations filing complaints with the Board?

11 A. No, sir; we generally are able to reach
12 mutual agreement, through negotiation, with our shippers,
13 Mr. Sinclair.

14 MR. SINCLAIR: Now, Mr. Chairman and
15 members of the Commission, I wish to discuss with the
16 witness competitive rates and agreed charges.

17 Q. Generally speaking, Mr. Roberts, in
18 a summary way, would you deal with this group of freight
19 charges, competitive rates and agreed charges? Do
20 you group them as one when you are thinking of freight
21 rates, generally speaking?

22 A. No, they are two separate and distinct
23 items; each has its own merits in the freight rate
24 structure, and we treat them separately, according to
25 the circumstances.

26 Q. I see. Then would you discuss them as
27 you feel would be of most assistance to the Commission?

28 A. The railways in recent years have been
29 faced with increasing competition from other forms of
30 transportation, many of which are unregulated in the
setting of rates, which are not in many cases in such a



1
2 form as to be available to the public.

3 In meeting the competition of other forms of
4 transportation, the railways must comply with the pro-
5 visions of Section 334 of the Railway Act, which sets
6 out the rules governing the publication of competitive
7 rates.

8 Q. Mr. Roberts, you said just a moment ago
9 that rates of some of the railways' competitors are in
10 some cases in a form not available to the public. Just
11 what did you mean by that?

12 A. Well, they are not published in tariffs
13 for general distribution to the public as are the rail-
14 ways' tariffs; limited supplies in some instances are
15 available. For example, in Ontario and Quebec there
16 are tariffs available; they have a tariff bureau, and
17 likewise in the Province of British Columbia they
18 have a tariff bureau, representing a great number of
19 highway carriers operating in those provinces.

20 Q. They contract the rates?

21 A. Yes.

22 Q. And are those rates which are under
23 contract available to the public, say, in British
24 Columbia?

25 A. No; to my knowledge, no. They are filed
26 with the Public Utilities Commission in the Province of
27 British Columbia. There is one copy filed with them,
28 but it isn't available for examination by other than the
29 parties to the contract.

30 THE CHAIRMAN: They are available in Manitoba.

MR. SINCLAIR: Yes.



1
2 Q. In these other provinces it is different,
3 Mr. Roberts?

4 A. I would agree with Mr. MacPherson, sir.

5 Q. The situation can vary from province to
6 province?

7 A. It does, Mr. Sinclair.

8 Q. For instance, in Alberta, what is the
9 situation generally there?

10 A. In the Province of Alberta, Mr. Sinclair,
11 there is no control kept over the operations in the
12 matter of rate-making of the truckers.

13 Q. And are there some provinces in the
14 Maritimes which are similarly situated in regard to that?

15 A. I believe in the Province of New Brunswick,
16 Mr. Sinclair.

17 Q. We are just trying to do this in a general
18 way, Mr. Roberts. I think possibly it might be well to
19 ask you this: in your opinion, would it be of assistance
20 as a traffic man dealing with shippers for shippers to
21 have available at all times all types of truck rates like
22 railway rates are available?

23 A. I would say so, Mr. Sinclair, because
24 then we would know, the railways would know what the
25 published rate was between two points with a particular
26 highway carrier, and likewise it would be available to
27 a shipper, because if there were two shippers competing
28 they would know what their rates were with their com-
29 petitors.

30 Q. And would the mere publishing of a tariff
rate result in those charges being available to all people



1
2 like they are on the railways? Has that been your
3 experience where rates are published and filed by some
4 of your competitors?

5 A. Well, I don't know about that particular
6 angle, Mr. Sinclair, whether they use one rate for one
7 shipper and another rate for another shipper. I
8 wouldn't answer that; I don't know.

9 Q. In the light of your answer earlier that
10 you think rates should be published and available like
11 all media of transportation, do you think there should
12 be any penalty for non-compliance?

13 A. Well, I think there should, sir, because
14 they are a common carrier and there is a penalty in
15 the Railway Act against the railways for non-compliance
16 of tariff rates, and I think that the same sort of
17 situation should govern.

18 Q. And in some of the provinces is there
19 such a provision, penalty for non-compliance with tariffs?

20 A. I think there is in the Province of
21 Quebec.

22 THE CHAIRMAN: I think we can adjourn now.

23 Before we adjourn, there are so many questions
24 as to dates and witnesses that I felt we might profitably
25 tomorrow morning, off the record, consider dates and
26 where we are going to meet, and I wish that counsel
27 would think over the matter. With Energy Boards,
28 and so on, sitting, it is a question of some trouble.
29 But I think we should consider just what we should do
30 so that everyone will know where they are going and
what to expect, and so on.



1
2 MR. SINCLAIR: I am sure this must be a
3 question in the minds of my friends. What time
4 would the Commission like to meet with counsel?

5 THE CHAIRMAN: I think we may meet at ten
6 o'clock with counsel here, because one of the things I
7 found since we met this morning is Mr. Frawley's
8 motion which is to be dealt with tomorrow morning.
9 There is a question of witnesses, and so on, there,
10 and I think probably at ten o'clock tomorrow morning
11 we can have an off-the-record talk and discuss where we
12 are going, what we are going to do.

13 MR. SINCLAIR: I must say Mr. Frawley isn't
14 here. As far as I knew, sir, as to his motion on
15 what I call Point No. 1, I think he was only looking
16 for a date to be fixed in regard to that tomorrow.
17 I don't think he was going to go further than that.

18 THE CHAIRMAN: I know, but it may be con-
19 tingent upon when he can have the witness here

20 MR. MAURO: We have been in touch with our
21 experts in the United States, and I think Mr. Frawley
22 this morning gave the report on that to counsel, and
23 I think we may as well do it all at one time tomorrow
24 morning.

25 THE CHAIRMAN: Ten o'clock tomorrow morning.

26 In that respect, Mr. Macdougall, you stated
27 that you would have your case, your case would be
28 ready. When would you want that to go in? And the
29 same is true with you, Mr. Sinclair; you have further
30 questions you want brought to the attention of the
Commission?



1
2 MR. SINCLAIR: Oh, I understand now, Mr.
3 Chairman. What you are saying is that we should
4 turn our minds to all the work of the Commission,
5 including such matters outstanding in connection with
6 the phase we are in now and all other phases.

7 THE CHAIRMAN: Where we are going and how.

8 MR. SINCLAIR: And at what time.

9 THE CHAIRMAN: And at what time.

10 MR. SINCLAIR: We will certainly turn that
11 over in our minds.

12 ---Luncheon adjournment.

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2 ---On resuming at 2.00 p.m.

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4 THE CHAIRMAN: All right, gentlemen.

5 MR. FRAWLEY: Mr. Chairman, before the cross-
6 examination resumes, I would like now to tender the
7 statement that I was discussing with Mr. McCoy this
8 morning. It was taken by the reporters for the pur-
9 poses of the transcript, and that is why I could not
10 give it to you earlier. I would offer this as
11 Exhibit No. 86.

12 ---EXHIBIT NO. 86: Schedule of Rates.

13 MR. FRAWLEY: I have one copy which Mr.
14 McCoy is going to return to me, and I will have typed
15 copies made so that the Commissioners may each have
16 one.

17 THE CHAIRMAN: When you were out this morning,
18 we had the problem of dates which was exaggerated by
19 your own memorandum as to your own witness in the
20 Motion.

21 MR. FRAWLEY: Yes.

22 THE CHAIRMAN: Now, that being so, we have
23 decided that tomorrow morning we will devote properly
24 to the whole question of dates.

25 MR. FRAWLEY: Thank you, sir.

26 THE CHAIRMAN: Mr. Sinclair.

27 MR. SINCLAIR: Well, I think the arrangement,
28 Mr. Chairman, was that at two o'clock Mr. McCoy would
29 go back into the witness box to be cross-examined by
30 Mr. Blair. Mr. Roberts will stand down in the interim.



CHARLES LESLIE McCOY, recalled

MR. BLAIR: Mr. Chairman, again I would like to express my thanks and the thanks of the Province of British Columbia for the consideration which has been shown to us.

CROSS-EXAMINATION BY MR. BLAIR:

Q. Mr. McCoy, I would like to direct your attention to page 7 of the memorandum of the evidence which you presented.

In the first paragraph, second last sentence, the following occurs:

"... the railways find it difficult to improve their overall average revenue per ton mile without attempting to place on the non-competitive traffic the burden of increased operating costs."

Now, Mr. McCoy, when you say that, are you suggesting that some traffics bear a much greater rate or carry a much greater rate than the actual cost of the movement would justify?

A. What I am saying there, sir, is not based on cost. It is based upon the problem of, perhaps, pricing yourself out of the competitive market. In other words, the railways do not desire to lose competitive freight, and the competition in many cases sets the price for us.

On the other hand, I want to assure you that our competitive rate of traffic is, to the best of our knowledge, compensatory; but not, naturally, or in many cases as high as we would like to have it. I am



1
2 not going on cost of service on that one altogether,
3 sir.

4 Q. Have you any instances in your mind of
5 non-competitive traffics which bear a burden in excess
6 of their cost?

7 A. I wouldn't call it a burden. My point
8 is that on what you might call the transportation traffic
9 or the normal rate of traffic, the railways try to put
10 a rate in that will permit free movement of traffic and
11 at the same time cover all their expenses plus something
12 more.

13 Now, we have high rates and low rates, as you
14 know; although I do not believe that any of them are
15 out of line under present day conditions. And, by
16 the same token, the word "burden" -- I am not too keen
17 about that one because, after all, transportation is only
18 one segment of a business transaction. Sometimes I
19 think it is over-emphasized.

20 Q. The word "burden" occurs in your statement.

21 A. I realize that, sir, and I think it slipped
22 in there when I wasn't looking.

23 Q. Perhaps you wish it wasn't there now?

24 A. Well, frankly speaking, I do not like the
25 word.

26 Q. Mr. McCoy, you have no examples which
27 come readily to your mind of traffic which bear a
28 large burden of operating costs?

29 A. Well, you would get me into a matter of
30 degree there. I would assume that anybody that paid
a class rate would say he is suffering. Well, I do not



1
2 agree with that, definitely; but I do know that class
3 rates are certainly not looked upon with favour in
4 industrial circles. In fact, if a man says he is paying
5 a class rate, it is almost the same thing as saying,
6 "You are trying to kill me," and that is not quite so.

7 Q. I find a little difficulty with the state-
8 ment you have made that the competitive rates are com-
9 pensatory but they are not compensatory enough, I gather?

10 A. Well, we would like to have them on a
11 normal level. But, unfortunately, we are restrained
12 from doing that.

13 Q. What would a normal level be?

14 A. Well, your normal commodity rate level.
15 In other words, let us assume for the moment you have a
16 normal class or commodity rate. Competition comes along;
17 you may have to reduce that. Well, naturally, as
18 ordinary business men we would prefer to maintain our
19 price at the normal class or normal commodity rate level.
20 We make commodity rates when we feel that the class rates
21 are perhaps restricting the free movement of freight.

22 Q. Well, now, may I just ask you this. Am
23 I to gather from what you are saying that the competitive
24 rates are compensatory; the commodity rates are more than
25 compensatory; and the class rates are much more than
26 compensatory?

27 A. Well, that would be one way of putting it.
28 I think you would be straining quite a bit to put it
29 that way. I think, myself, that a commodity rate -- a
30 normal commodity rate -- is an appropriate or proper
level for certain kinds of traffic. And a class rate,



1
2 by the same token, is also an appropriate rate.

3 In other words, because you pay a class rate,
4 that does not say that you are restricted or your
5 movements are restricted. Frankly, the industrial
6 profit may not be the same, but, by the same token,
7 as long as the class rates do not preclude the free
8 movement of trade and we get a return to the railways,
9 it does not matter.

10 Q. My interpretation of what you are
11 saying is that if you are unfortunate enough to have a
12 commodity which is not the subject of competition from
13 any other form of transportation, then he will pay a
14 class rate?

15 A. I am not saying that at all, sir. What
16 I said was when we establish a normal commodity rate.

17 Q. I am talking about the class rates, now.

18 A. Would you please repeat the question,
19 sir?

20 Q. My interpretation -- and I do not want
21 to be unfair to you -- from what you are saying, my
22 interpretation is that if a person is unfortunate enough
23 to produce a commodity which cannot be carried by any
24 competing form of transportation, then he will pay a
25 class rate?

26 A. Oh, no, we do not say that. No, sir,
27 we do not.

28 I have said before that if we find the class
29 rates are not appropriate, then we will make a commodity
30 rate. That is a normal business practice. I think
you will admit that.



1
2 Q. Under what circumstances do you find
3 that a class rate is not appropriate?

4 A. Well, for many years -- I am not sure
5 today; although I think, generally speaking, I am
6 correct -- we had many rates classifying 5th Class.
7 One, we reduced the rating to 7th Class. Acid is
8 what I have in mind. We found that the 5th Class
9 rate was not permitting the free flow of freight and,
10 after negotiation with industry itself, we reduced the
11 level to 7th Class.

12 Q. Why did it not permit the free flow of
13 freight?

14 A. Well, what industry told us, or, convinced
15 us, I should say, was that the rates were too high; they
16 were out of line with the value of the commodity it-
17 self; as such, they felt they should have a reduction.

18 Now, whether or not we were right or wrong
19 is another matter, but that is one of the ways we
20 handle the commodity level. In fact, we have been
21 doing that for years, and I think the development of
22 the country indicates we used pretty good judgment in
23 our rating commodities on a normal commodity basis in-
24 stead of on a class rate basis.

25 Q. But you did not put it into another class;
26 you gave it another class rate and called it a commodity
27 rate?

28 A. Yes, sir. As a matter of fact, we did
29 not make an exception rating as they would in the
30 United States. We took the origin points and published
specific rates.



1
2 Q. Would this be a commodity where if it
3 did not move on Canadian railways it would be brought
4 in from the United States?

5 A. It could have been brought in from the
6 United States, but I am testing my memory here -- I would
7 say the international level would probably be as high or
8 a little higher than the Eastern Canadian level.

9 Q. This is a clear case of an example of
10 miscalculating what the shipper would pay?

11 A. I do not agree with the word "miscalcula-
12 ting". I say we acted as ordinary businessmen. We
13 tried to put business on the railways and have a free
14 movement of traffic.

15 Q. It sounds to me that what you are pro-
16 pounding is the principle of what the traffic will bear?

17 A. That is a rather cruel phrase. I think
18 a just and reasonable rate would be more fair.

19 "What the traffic will bear" are words I do
20 not like. A "just and reasonable rate" are the words
21 I would use. "What the traffic will bear" is a
22 phrase that has been whipped around for years, most
23 unfairly, with the railways. I think it originated
24 with a railway man, but I think he had a night out before
25 he made that statement.

26 COMMISSIONER MANN: Mr. McCoy, some people
27 have felt a better way of expressing that is "not to
28 charge what the traffic will not bear". That makes
29 it sound less cruel, doesn't it?

30 THE WITNESS: I would say in other words we
try to have a realistic approach. That is as far as



1
2 we go.

3 MR. BLAIR: Q. Mr. McCoy, I perhaps
4 should not review something which counsel for the
5 Canadian National Railways may intend to do, but it
6 is my understanding that you have prepared a statement
7 in exhibit form comparing grain rates?

8 A. As I understand, sir, you mean in the
9 exhibit I handed to Mr. Guest some time ago covering
10 rates to Vancouver?

11 Q. Yes, that is right.

12 MR. SINCLAIR: Would you care to have that
13 introduced now?

14 If I may interrupt for a moment, Mr. Chairman,
15 we were asked by counsel yesterday to indicate the
16 difference between the import level and the export level
17 for carrying grain, and Mr. McCoy has had a statement
18 prepared which I would like to file with the Commission.

19 THE CHAIRMAN: You may do it now. This
20 will be Exhibit No. 87.

21 ---EXHIBIT NO. 87: Statement showing rates on
22 grain and grain products from
23 representative points in
24 Alberta to Vancouver, B.C.

25 MR. BLAIR: Q. Mr. McCoy, the Commission
26 and yourself are looking at this exhibit, which I
27 understand is now Exhibit 87. Would you be good enough
28 to look at the second line? The point of origin is
29 Calgary. Now, am I right in assuming that if I ship
30 grain to the City of Vancouver for export it costs 20
cents per hundred pounds, but if I ship it for domestic
use it costs 66 cents per 100 pounds?



1
2 A. That is correct, sir.

3 Q. Mr. McCoy, is there any reason -- is
4 there any greater cost involved in shipping for domestic,
5 as compared to the export rates?

6 A. Well, sir, when you are discussing cost
7 you are away out of my field. I am sorry I cannot be
8 of any help on cost.

9 I will say, in explanation, the general theory
10 of export rates is they comprise only a portion of
11 the through transportation charge. And, while I am
12 not advocating the 20-cent rate is correct -- not by
13 any manner or means -- it is held down by a Board
14 Order No. 448, as I recall it. But, it is only a
15 portion of the through transportation charge, and I
16 should perhaps here state that both the Interstate
17 Commerce Commission and our own Canadian Board have
18 recognized that export rates are generally -- not
19 always, but generally on a lower basis than domestic
20 rates.

21 Q. Mr. McCoy, I take it that you have read
22 the submission of your company with reference to
23 the so-called Crow's Nest rates and related rates on
24 grain. Is it not a fact that your company is pro-
25 posing that in order to recoup the cost of your company
26 that these rates be increased by a percentage of
27 approximately 125 per cent?

28 A. It is not a proposal. What we have
29 said is -- I am reading now from the bottom of page 13
30 of my precis:

"Consequently, we have submitted the



1
2 information on rates past and presently
3 applicable in Canada and in the United
4 States along with an indication of the level
5 that established rate-making principles
6 would suggest, in order to assist the
7 Commission to determine what would be a
8 just and reasonable level of compensation."
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14 (Page 3315 follows)
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2 Q. Mr. McCoy, I am not going to quibble
3 with you, but I will just read to you paragraph 10
4 of what appears to be the concluding branch of your
5 submission, which reads as follows:

6 "The application of conventional rate
7 making principles shows that an increase
8 of 125 per cent could be made in the
9 existing rates without disturbing the
10 1927 commodity to class rate relationship".

11 A. That is mechanics, sir - "...could
12 be made in existing rates without disturbing the 1927
13 commodity to class rate relationship".

14 Q. Are you familiar enough with the
15 balance of this submission to be able to say that the
16 basis of the case which the railways are making is
17 that this scale increase would cover their cost for
18 shipping export grain?

19 A. That is my understanding, yes, sir.

20 Q. If one were to apply the increase of
21 125 per cent to that rate of 20 cents from Calgary
22 to Vancouver, one would get a new rate of 45 cents.

23 A. That would be correct, sir.

24 Q. Now, Mr. McCoy, can you tell me why
25 it is that the shippers of domestic grain are paying
26 a rate of 66 cents which, by your figure, is 21 cents
27 per 100 lbs. more than the cost of shipping that grain?

28 MR. MACDOUGALL: Mr. Chairman, perhaps
29 before Mr. McCoy answers that question - I don't
30 say it is not a fair question to put to Mr. McCoy,
but the question, as I understand it, is relating the



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2 66 cent rate to cost, and, as Mr. Blair knows, and
3 as a matter of public interest, the question of
4 the level of these rates was before the Supreme Court
5 of Canada as to whether it should be on the export
6 level, and the Supreme Court threw that suggestion
7 out and said that there was nothing wrong with having
8 the two levels of rates. So I don't think it is
9 a proper question to ask Mr. McCoy, when that matter
10 has been dealt with in the Supreme Court.

11 MR. BLAIR: I think it is an extraordinary
12 proposition that because the Supreme Court of Canada,
13 on the basis of the present wording of the Railway
14 Act, it should be precluded from this submission.

15 MR. MACDOUGALL: Mr. Chairman, the citation
16 is The Minister of Agriculture of British Columbia
17 versus Canadian National Railway et al,
18 1959 Supreme Court Reports, page 229. That was
19 an appeal by British Columbia, Mr. Blair's clients,
20 against the railway.

21 THE CHAIRMAN: What is the question again?

22 MR. BLAIR: May I give it to you shortly,
23 Mr. Chairman?

24 THE CHAIRMAN: Yes.

25 MR. BLAIR: The problem I should like to
26 present to Mr. McCoy as a rate-maker is this: why is
27 it that the domestic grain rate to Vancouver should
28 be fixed at a level where it appears to be at least
29 21 cents per 100 lbs. greater than a rate which would
30 fully reimburse the railways for their costs?

THE CHAIRMAN: I think that is a question Mr.



McCoy should answer.

THE WITNESS: Well, the 45 cents on any freight is only part of the through transportation charge, and, furthermore, I do not think you or anybody else in Canada would want to do anything that might disturb the free marketing of export traffic. If we added the ocean rate to the rail rate you might find it higher than 66 cents, the through transportation charge is materially higher than 66 cents. In both the United States and in Canada they have had many instances before them where they justified the railways having lower export rates than domestic rates. This was before it was changed by the Interstate Commerce Commission and the Canadian Transport Board.

Q. I say to you, in view of the submission that the railways are making to this Commission, that you or I are missing the significance of what has been in issue here for the past few days, because surely what your company has submitted is that it is entitled, as a right, to recover its full cost from this export traffic in grain, and there has been nothing I have read, although I haven't been here all the time, about the general question of export policy. You are determined now, for reasons of public policy, to recover your full cost of traffic, and I just put that to you so that you will have an opportunity to consider whether your answer to my question doesn't entirely miss the point.

A. I do not miss the point. I differ with



1
2 you, I am sorry to say.

3 THE CHAIRMAN: Of course, the rest is
4 subject to argument.

5 MR. BLAIR Q: This is the only
6 explanation you can offer at this time as to why there
7 should be this disparity between these rates?

8 A. I think it is logical, Mr. Blair.

9 MR. MACDOUGALL: I think if Mr. McCoy
10 was asked to give a full explanation of the difference
11 between export and domestic rates he could say a lot
12 more than he has said here in the court room this
13 afternoon. It should be noted that his explanation
14 is very cursory when you consider the whole aspect
15 of that problem, which is quite a detailed one, as
16 you will understand.

17 MR. BLAIR: Well, the Chairman has ruled
18 that this question never gets into the realm of
19 argument, but I could only finish by saying that the
20 question hasn't been answered.

21 MR. SINCLAIR: Because it wasn't clearly
22 put, possibly.

23 MR. BLAIR: What Mr. Sinclair's intervention
24 suggests to me is that perhaps his witness Mr.
25 Roberts will be better to answer.

26 MR. SINCLAIR: We will take it as notice,
27 and he will have a lot more time to give all the
28 reasons that Mr. McCoy could have told. We always
29 like questions from British Columbia or any other
30 province.

MR. GUEST: You knew it was coming.



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2 MR. BLAIR: There is one other question
3 that I would like to draw Mr. McCoy's attention to,
4 and that has to do with the question of the measuring
5 of revenue at page 4 of his submission. I am looking,
6 Mr. Chairman, at the first paragraph of page 4, and
7 I think it is fair to say, from the wording of this
8 paragraph, that Mr. McCoy is of the opinion that
9 the best index of railway revenue is the revenue per
10 ton-mile.

11 Q. Is that a fair statement?

12 A. Yes, sir, I would say so. We have
13 other yardsticks, but I personally feel that the
14 revenue per ton-mile is a basic anchor.

15 Q. If you use revenue per ton-mile as
16 your yardstick ---

17 A. That is one of the yardsticks.

18 Q. As a yardstick, are there any areas
19 where it is deficient, where it will not show the
20 full picture?

21 A. I do not know whether there are any
22 areas. In fact, I don't get the import of the
23 question, because under equalization proceedings we
24 are supposed to have the same level of rates all
25 over the country. We are not talking of competitive
26 rates, of course.

27 Q. Are there any factors in the
28 assessment of railway revenue and costs which this
29 index ton-mile revenue would omit and not give
30 proper weight to?

A. Well, Mr. Blair, as I have testified



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2 before, when we get into what we call our low spot
3 rates we invariably have a lot more cost on it.

4 It may well be ---

5 Q. Low spot rates?

6 A. Yes. Now, it may well be that as
7 we proceed with our costing there will be areas where
8 our costs will be higher than any other places, and
9 that will bring about the result of perhaps a higher
10 ton-mile rate required in other sections, and that
11 will also be strongly resisted by other industries
12 in the country - so and so has a ton-mile rate of
13 so many cents and we want the same thing, and you
14 could find different costs all over the country.

15 Q. Mr. McCoy, on this question of costs,
16 would the factor of ton-mile give you any indication
17 of the advantages of one type of loadability over
18 another type?

19 A. I am not qualified to go into the
20 costing field. We have our cost witness who can
21 answer that one, sir.

22 Q. And just taking your evidence here.
23 Would you feel qualified to offer an opinion as a
24 measurement?

25 A. Yes, as a measurement, but when you
26 get into costing, that is out of my field entirely.

27 Q. Let's approach this from the standpoint
28 of revenue. Isn't it a factor of loadability if
29 you have a commodity which can be loaded up to 70
30 thousand lbs. per car?

A. We have varying loads, yes, sir; there



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2 is no question about that.

3 Q. Wouldn't that rate, bearing in mind
4 its loadability with the per ton index, per ton-mile
5 index, give you the whole story on revenue?

6 A. It would give a better picture, I
7 think. There is nothing perfect in this picture,
8 but, in my opinion, your per ton-mile is your best
9 yardstick, because it indicates the work performed.

10 Q. But if you are carrying 70 thousand
11 lbs. in one car and 20 thousand lbs. in another you
12 are performing another type of work?

13 A. We are performing a different type
14 of transportation. It may be better to haul the
15 70 thousand lbs. rather than the 20 thousand lbs.
16 On the other hand, if you have a crowded market your
17 70 thousand lbs. is not worth a --- .

18 Q. Wouldn't you measure this in terms
19 of work the railway does? If you carry 70 thousand
20 lbs. in one car and 20 thousand lbs. in another,
21 in terms of work performed you can get more revenue
22 from the 20 thousand than from the 70 thousand?

23 A. That could be under different rate
24 levels, yes, sir.

25 Q. So an average per ton-mile doesn't
26 give you any real indication of the actual revenue
27 you receive from particular traffic?

28 A. We think it does.

29 Q. What about density of traffic?
30 Would that be a fact -- would part of the amounts
be taken by the per ton-mile indices?



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2 A. As I would understand your question,
3 you are working on the theory of costs, traffic
4 density. Costing is out of my field, sir.

5 Q. What about the question of intermediate
6 switching and other work which is performed on trains
7 travelling a long distance and these things which
8 affect your revenue or your cost?

9 A. Intermediate switching is a switching
10 performed from one line from Canadian Pacific to
11 Canadian National.

12 Q. An interruption in traffic or
13 travel which some traffic is subject to and other
14 traffic is not subject to.

15 A. If we have a through rate - we
16 assume we haven't got a direct connection with
17 another carrier and we have to use an intermediate
18 line, there is the expense of the intermediate
19 carrier for his service.

20 Q. What about train load rates? Does
21 the per ton-mile index give you any real guide as
22 to revenue from movements?

23 A. We are not allowed to make train load
24 rates in Canada. Any time it has been done we have
25 had to throw them out.

26 Q. I am just asking whether the per ton-
27 mile rate reflects the fact that some movements
28 occur in large trains and others in small trains?

29 A. Well, we have not got uniform
30 trains. But I cannot get away from the fact that
your ton-mile factor is your best yardstick. I cannot



1
2 understand why the railways are not allowed to make
3 train load rates, because, after all, they are in
4 competition and they can take a train load with
5 a vessel. If you are talking about in Canada,
6 we tried this, and we are not allowed to do it.

7 Q. I take this part of your evidence
8 to mean that you like the per ton-mile analysis
9 for revenue, but you do admit it doesn't fully ---

10 A. There are other yardsticks, yes,
11 sir.

12 MR. BLAIR: I just have one more group of
13 questions, sir.

14 Q. Mr. McCoy, I am looking at the
15 submission which was made by Mr. Donald Gordon, the
16 President of your company to the Royal Commission
17 on Canada's Economic Prospects, submitted at Montreal
18 on January 19th, 1956. I will read a couple of
19 sentences, and I hope they will not be taken out
20 context. At one stage Mr. Gordon says this:

21 "There is, therefore, a vital distinction
22 to be made as between traffic that is es-
23 sentially tied to the rails and traffic
24 that is competitive with road transport."

25 MR. MACDOUGALL: Whereabouts is that in
26 the statement?

27 MR. BLAIR: I am sorry, at page 10, at
28 the beginning of the first full paragraph.

29 Q. Mr. McCoy, I have read the first
30 sentence of that.



1
2 A. Yes, sir.

3 Q. And then Mr. Gordon went on to say:
4 "In the truly competitive field the
5 concept of a 'just and reasonable'
6 rate, seems to me, is simply not applicable -
7 unless one is prepared to define a
8 competitive rate as being 'reasonable'
9 when it attracts business, and as being
10 'just' when it recoups at least the
11 out-of-pocket costs of carrying the
12 traffic in question."

13 Now, this seems to suggest to me that what
14 Mr. Gordon was saying - and he said it in 1956,
15 before a series of increases were put on, that the
16 competitive rates were below normal in the sense you
17 have used the word, that they did not recoup the
18 full costs of the railways and they cast a burden
19 upon the non-competitive traffic.

20 A. Well, I think, sir, it would be
21 better if you would read another sentence there.

22 "To compete effectively the railway
23 management must have the discretionary
24 power to apply their best judgment
25 to the situation at hand, to determine
26 the price of their service, and the
27 conditions under which the service is
28 offered".

29 That is the position we have taken for
30



1
2 a long time. We feel we would like to make
3 competitive rates as and when the competition exists.
4 I admit that they did not give us the old concept
5 of normal rates, but forces beyond our control are
6 changing ours; we have got to have more competitive
7 rates if we want to stay in business. But that
8 doesn't mean to say that they should be non-
9 compensatory.

10 Q. What are the forces which inhibit
11 you against making competitive rates on agreed
12 charges at the present time?

13 A. One force that has contained us in
14 one commodity for a long time has been the practice
15 of pricing on rail rates when the railways do not
16 get the freight, in all cases. Now, what I have
17 in mind - let us assume for the moment we put in
18 a competitive rate in the Province of Ontario. We
19 do not change the outlay for transportation. On
20 the other hand, the shipper in the Maritime provinces
21 will bitterly complain we have changed his market
22 pattern, and that is really a restraining thing
23 on us. We feel that as long as we do not change
24 the outlay for transportation we have not disturbed
25 anyone's market. But our patrons have maintained
26 otherwise, and I may say vigorously so. As a
27 matter of fact, I changed some rates on lumber not
28 so very long ago. I had very strong protests
29 from some of our Abitibi district in the Province
30 of Quebec, friends who said that British Columbia
was dumping lumber in the Toronto market. I am



1
2 only repeating what was told to me. I am not in the
3 lumber business. They strongly resented the changes
4 made.

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8 (Page 3330 follows)
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2 Q. So that your point that the railway made
3 then and which you are making now is that with greater
4 freedom you might be able to lessen the burden of non-
5 competitive traffic?

6 A. We contend we should have the maximum
7 freedom in the setting of our charges.

8 Q. But there is no question in my mind or
9 in the mind of the president of the Canadian National
10 Railways that a burden is now cast upon the non-com-
petitive traffic?

11 A. I don't understand your statement; you
12 say a burden is not now cast upon?

13 Q. I say that a burden is now cast upon the
14 non-competitive traffic to the extent it has to bear
15 more than ---

16 A. If anybody feels that the non-competitive
17 rates are wrong, they have full privilege to go to the
18 Transport Board and have the matter reviewed in detail.

19 MR. BLAIR: Those are my questions; thank
you, Mr. Chairman.

20 THE CHAIRMAN: Thank you. Just a moment,
21 Mr. Macdougall.

22 COMMISSIONER GOBEIL: Mr. McCoy, on page 10
23 of your precis, the second paragraph there, you mention
24 that the relationship of the commodity rate to the
25 8th Class rate dropped from approximately 40 per cent
in 1899 to approximately 32 per cent, that was in 1927?

26 THE WITNESS: Yes.

27 COMMISSIONER GOBEIL: In the further para-
28 graph, you are going to 1959, and you are saying that
29
30



1
2 the relation now is -- at least, it would stretch the
3 imagination of someone not familiar with it as being
4 a tremendous distortion, and I am not quite clear on
5 what its relationship to normal Class 8 class rate is.
6 Is it with the 30 per cent class or with traffic moving
7 only at the 8th Class rate?

8 THE WITNESS: It would be both, sir; in other
9 words, Class 30 changed as the rate levels changed
10 and in 1899 the class level was lower in cents per
11 hundred pounds than it is today.

12 Now, increases in the class rates changed
13 your percentage from 40 to about 32 on September 12,
14 1927, so that is the date when -- to use a loose
15 expression -- the rate level settled down for a while.
16 Then, as the increases came along, starting at April 8,
17 1948, the class rates increased but the statutory
18 didn't. The result was that the percentage went
19 down. In other words 40 went to 32 and then down to
20 15, 14, and so on.

21 COMMISSIONER GOBEIL: You say the class rate
22 increased; you mean Class 30 or the traffic moving ---

23 THE WITNESS: No, sir, the rate itself; the
24 class from 100 down to 27 have all increased.

25 MR. MACDOUGALL: A general increase.

26 THE WITNESS: Under the general increase.

27 COMMISSIONER GOBEIL: You said, Mr. McCoy,
28 yesterday that the C.N.R. traffic -- that probably not
29 five per cent of it is moving at the normal rate?

30 THE WITNESS: There has been a switch from
class rates to commodity rates and even competitive rates.



1
2 That is going on continuously, sir. In other words,
3 I would say that your class rate traffic has never been
4 static, percentagewise, to your total movement.

5 In fact, we have large freight traffic depart-
6 ments at Moncton, Montreal, Toronto, Winnipeg and
7 Vancouver, and they are constantly making new rates
8 as new conditions prompt them to do so, but the class
9 rate business, I will admit, it is not as high as it
10 was some time ago. A lot of it has been switched to
11 pool car operators under our new mixing rules.

12 COMMISSIONER GOBEIL: There is less than
13 five per cent?

14 THE WITNESS: There may be something in that
15 vicinity; I didn't put a percentage figure on it, but
16 it may be in that vicinity.

17 COMMISSIONER GOBEIL: And in that Class 8
18 is there one per cent of the whole five per cent
19 movement?

20 THE WITNESS: I would not want to put a
21 figure on that because I have never made the calcula-
22 tion, but I do know that under certain commodity rate
23 items there is a fairly substantial movement; not what
24 we would call Class 8, but the commodities themselves
25 may classify as, say, 45, but the rates may have gone
26 down from 30 or 27, but in our commodity rate setup
27 we endeavour in many cases to relate our commodity
28 rates, our normal commodity rates to the Class rates
29 themselves.

30 COMMISSIONER GOBEIL: But the commodity rate
on Class 8 will not move at 30 per cent?

THE WITNESS: No, the commodities specifically



1
2 in that classification don't move.

3 COMMISSIONER GOBEIL: Is this relationship
4 to a paper rate, as they call it, or actual traffic in
5 Class 8?

6 THE WITNESS: It could be both, sir, but as
7 I said before I haven't had an opportunity of putting
8 on -- making a check, I should say, to determine
9 exactly what is moving at class rates when the com-
10 modity is also classified by Column 30; we haven't
11 done that.

12 COMMISSIONER GOBEIL: I don't know exactly
13 what it means, this relationship, I being some kind of
14 a lumberjack, but I was reading this Equalization Case
15 of 1948 on the rate of lumber and forest products,
16 and on page -- you see, that is why I am asking it in
17 that connection, and it is 32 and 12 per cent, and it
18 is found on page 20 there.

19 MR. MACDOUGALL: Will you tell us which
20 Judgment you are reading from, sir?

21 COMMISSIONER GOBEIL: What I see here it
22 is the one on Equalization, April 7, 1958.

23 MR. FRAWLEY: What is the date of the De-
24 cision?

25 COMMISSIONER GOBEIL: March 3, 1958, I think
26 it is.

27 MR. MACDOUGALL: That is right.

28 MR. SINCLAIR: It is the Lumber Equalization
29 Case.

30 COMMISSIONER GOBEIL: Yes, that is right.
On page 20 of that case, from Toronto to Vancouver,



1
2 they give here the percentage commodity rate as of
3 Class 100 as 14 per cent, and I understand that the
4 lumber fell in the class of 33 per cent.

5 THE WITNESS: Lumber, I think, would be
6 Class 27.

7 COMMISSIONER GOBEIL: 27?

8 THE WITNESS: Yes, the old 10th Class.

9 COMMISSIONER GOBEIL: One could take this
10 and maybe conclude that using that 14 per cent there
11 and say the lumber is moving at 50 per cent of the
12 normal Class rate, would that be a statement similar
13 to the other one?

14 THE WITNESS: It could be taken that way,
15 yes; it is moving at 50 per cent of the Class rate,
16 but I don't know of any lumber moving at a Class rate.
17 Now, there may be some, but very, very few carloads
18 and I think you will find that the railways, long before
19 I was in the business, established commodity rates on
20 lumber practically throughout all of Canada, and
21 this particular rate here from Toronto to British
22 Columbia is no doubt tied down to a certain extent by
23 a rate from an across-the-country point in the United
24 States. I have not checked the details of this rate,
25 but that well could be the case.

26 COMMISSIONER GOBEIL: You just said
27 what I had in mind. A statement like a 30 per cent
28 or 12 per cent -- when we say that, the lumber is
29 moving at 50 per cent of the normal class rate?

30 THE WITNESS: Yes.

COMMISSIONER GOBEIL: But that is what you
said, that no lumber is moving at a class rate?



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THE WITNESS: No, but it is classified.

COMMISSIONER GOBEIL: And no grain moving at the class rate?

THE WITNESS: I wouldn't know of any moving at a class rate today.

MR. SINCLAIR: I might not be following you, but I think the railway's point, sir, is that it is the change in the percentage relationship to the class rate over time. What these traffic witnesses are saying -- and I am trying to be helpful because if you are not accustomed to talking to them they are sometimes a little difficult to follow ---

THE WITNESS: That is right.

MR. SINCLAIR: What he is saying is that it is the change in the relationship over time. That is what the railways are saying there, so therefore, if you want to make comparisons like that then you have to take change in relationship over time rather than taking percentages, and that is why he is answering you that 40 has gone to 32.

COMMISSIONER GOBEIL: It is 32 to 12 that I mean.

MR. SINCLAIR: It is the change in the relationship over time; that is the way we would express it.

COMMISSIONER GOBEIL: Thank you.

THE CHAIRMAN: Mr. Balch? Mr. Mann?

MR. MACDOUGALL: I was going to say this, it might be of help to Mr. Gobeil, that in the Waybill Analysis of 1958 at page 3 where the class rates are



1
2 recorded, that the Class 30 is just what you have been
3 speaking of here, and it records 25 carloads moved
4 under Class 30 during that year. It is recorded by
5 the one per cent sample of the Waybill Analysis, and it
6 appears that the total is 1,035; that is what is recorded
7 in the sample.

8 MR. FRAWLEY: Where was the class rate move-
9 ment?

10 MR. MACDOUGALL: He was asking about the
11 volume that moved in Class 30 and in relation to the
12 prior 1,035.

13 MR. FRAWLEY: Does it show somewhere?

14 MR. MACDOUGALL: It doesn't show that.

15 THE WITNESS: I think before that we would
16 have to get the cards and find out the details of the
17 traffic because it may be that some of the Class 30
18 was what we might call an exception rating.

19 MR. MACDOUGALL: It could be.

20 COMMISSIONER MANN: Mr. McCoy, this morning
21 in reply to Mr. Frawley you said, "If we had freedom
22 in all our rates we might make a much better showing."
23 Now, this afternoon just a few minutes ago in reply to
24 Mr. Blair you stated, "We should have maximum freedom
25 in the setting of our charges."

26 Now, I wonder whether you and I can run over
27 some of the things which perhaps you might find in-
28 hibiting under the present regulation ---

29 THE WITNESS: In the present ---

30 COMMISSIONER MANN: The present way the
Railway Act is phrased. For instance, would you



1
2 consider it advisable to be exempted from any re-
3 quirements of publishing rates?

4 THE WITNESS: Speaking personally, sir, I
5 feel the railways should be in the same position as
6 industry, but I would go this far; I see no objection
7 to them being subject to publishing maximum rates and
8 file those rates with the Board, but they should not
9 be made public -- we should have maximum freedom to
10 price our commodities the same as sugar and tea be-
11 cause, first, the old concept has largely gone due to
12 other methods of transport and, secondly, transporta-
tion is only one part of the business transaction.

13 Those are the two main reasons which I have,
14 sir, and I feel they might cure what I honestly believe
15 to be many of the evils on the prices of commodities..
16 For example, you may have a commodity priced at, say,
17 Montreal, and with a difference in freight as compared
18 to a Toronto movement, but what are the costs of pro-
19 ducing a commodity, say, at a point like Saint John
20 or Halifax got to do with the cost of producing the
21 same commodity at Montreal? I think you know the
22 organization which I am speaking about there, sir; that
is No. 1.

23 No. 2, in many cases the railways may not
24 even get the freight. Now, why should the railways
25 be subjected to a tax, as they have been in the past,
26 by people who don't use the railways and use other
27 methods of transportation? They insist that the
28 railways' rates must be maintained to suit their
29 immediate or economic setup. I think it is definitely
30



1
2 wrong. That is my personal opinion. I have not con-
3 ferred with my executive on that, my former executive,
4 on that one. I know it is a shocking theory in many
5 quarters, but that is my personal view. I do feel that
6 the railways should have greater freedom, and I have no
7 illusions, I don't say that the rates will remain
8 private, it will be impossible to keep them private
9 because there would be an odd invoice pass around, and
10 you know how it could be done better, perhaps, than I
do.

11 COMMISSIONER MANN: I don't know about that.
12 Then, such requirements as 30 days' notice of increases
13 and three days' notice of decreases and requirements
14 governing special rate notices, they wouldn't be neces-
sary either?

15 THE WITNESS: Well, sir, fortunately we feel
16 we may get some relief on the 30 days' cancellation,
17 but whether or not it will come to this in the next
18 year or so, I don't know. That is a specific regula-
19 tion of the Board. However, certainly it is very
20 frustrating to try and get a rate put in on short notice
21 of less than 30 days from, say, Montreal to Chicago, or
22 Montreal to Buffalo, where there are only two or three
23 lines in the United States. Their pattern over there
to me is very restricted.

24 What I have in mind is, let us assume for the
25 moment that you have 20 tons of freight per month and it
26 is ready to move right away. Well, you are held up by
27 the Interstate Commerce Commission for a month and then
28 you have to track them down and there is a second
29
30



1
2 application for approval, and that means writing up a
3 story, and if somebody had a good breakfast in Washington
4 you may get it, and if they had a bad breakfast you may
5 be turned down.

6 COMMISSIONER MANN: I was thinking about do-
7 mestic rates and the classifications of the Railway Act.

8 THE WITNESS: Coming back to that, we can make
9 a reduction on three days' notice. If you want to make
10 it in one day you have to give them chapter and verse.
11 The special rate noted is not always applicable and we
12 can only use it from two local points; you can't use
13 them on competitive, but in any event it does seem strange
14 that a bulk commodity like flour can move by vessel from
15 Port Arthur to Toronto, Hamilton or any point in the
16 east and with no rate notice issued, nothing covered
17 in any rate, but once it is with the railways it has to
18 be tied up in a tariff, and that seems to be wrong.

19 COMMISSIONER MANN: The Railway Act has sec-
20 tions dealing with unjust discrimination and undue
21 preference; do you think that is inhibiting the freedom
22 of the railways?

23 THE WITNESS: I would think that the word
24 "discrimination" is very much overworked.

25 COMMISSIONER MANN: I said unjust discrimination
26 in the meaning with which we are familiar.

27 THE WITNESS: I will deal with the phrase
28 "unjust discrimination"; I don't think for one moment
29 that any railway company deliberately goes out and tries
30 to create any unjust things, I think they try to be fair
to them all, but when the party doesn't get the rate he



1
2 wants then he is complaining about unjust discrimina-
3 tion, but doesn't complain about having to pay a
4 different wage rate, or something like that, to his
5 employees.

6 COMMISSIONER MANN: You think that the
7 regulations presently in the Railway Act with regard to
8 unjust discrimination and undue preference are in the
9 way of the railways' pricing policy?

10 THE WITNESS: To a certain extent they are,
11 yes, and they would particularly apply if we ever have
12 to come under rates on the cost of service basis, be-
13 cause certainly you will not have the same costs all
14 over Canada.

15 COMMISSIONER MANN: You would hold the same
16 view with regard to Section 334 of the Railway Act
17 which deals with the competitive rates, the publica-
18 tion of competitive rates?

19 MR. SINCLAIR: That number is correct.

20 THE WITNESS: Section 334, I think, is a
21 monstrosity; that is my personal opinion, and particularly
22 I would like to point out certain requirements that the
23 Board could expect or could call upon us to fulfill.
24 Now, what good would the name of the competing carrier
25 or carriers do the Board? To me that is utter non-
26 sense.

27 The route over which competing carriers operate;
28 if the competition is there, why should the Board worry
29 over what route the competing carriers are operating?

30 The estimated amount of tonnage that is
diverted from the railways, or that will be diverted



1 if the rate is not made effective; nobody can make an
2 estimate, and we have our problems in making them, and
3 I don't see how we could possibly comply with that.

4 The tonnage normally carried by the railways
5 between the points of origin and destination; I don't
6 know what help that would be in making a competitive
7 rate.

8 The extent to which the net revenue of the
9 company will be improved by the proposed changes; if
10 you don't get the price the business falls off and you
11 don't know where you are at.

12 The revenue per ton mile and per car mile at
13 the proposed rate and the corresponding averages to the
14 company's system or region in which the traffic is to
15 move; that is a pretty difficult task. It might cost
16 us more to comply with that particular section than it
17 would if we handled all the freight offering in the
18 competitive rate. In other words, it puts us under a
19 burden; I feel that personally.

20 THE CHAIRMAN: That is the section which was
21 recommended by the Turgeon Commission?

22 THE WITNESS: Yes, and I am very sorry to say
23 that it got in the Act.

24 MR. FRAWLEY: After many hours of weary battle.

25 THE WITNESS: I think the railways would like
26 to know why the battle was put up. What benefit has
27 it given to anybody, either industry or to the railway
28 itself? I don't know of any benefit anybody has
29 derived from it.

30 THE CHAIRMAN: Well, we will adjourn for five
minutes now.

---Short recess.

(Page 3345 follows)



1
2 THE CHAIRMAN: Commissioner Mann?

3 BY COMMISSIONER MANN:

4 COMMISSIONER MANN Q: I have a few very
5 short questions, Mr. McCoy.

6 On page 2 of your precis you point out
7 the reporting system and the waybill study.

8 A. Yes, sir.

9 Q. You will notice that there is a
10 difference in the reporting system as between traffic
11 from the Maritime, traffic that is subject to the
12 Maritime Freight Rates Act, and the traffic between
13 eastern and western Canada, the subject of the bridge
14 subsidy.

15 A. I believe that is explained in one
16 of the notes, sir, in the introduction.

17 Q. Do you think it would, for the sake
18 of uniformity, be helpful to have the Maritime
19 traffic reported at the revenue received by the
20 railways?

21 A. I would personally like to see two
22 columns in there -- what is paid, and also the total
23 compensation.

24 Q. Would you consider the same
25 recommendation for the bridge subsidy?

26 A. I think they should both be in, yes,
27 sir. With the entire picture, you can work much
28 easier with it than with only portion of it.

29 Q. At the bottom of page 2, at the very
30 last sentence, in this case. This is speaking about
the feed grain subsidies.



1
2 "The administration of the seed grain
3 subsidies does not involve railway freight
4 waybills or tariffs. In this case the
5 subvention is paid directly to the person
6 who pays the freight charges."

7 Do you consider that the direct payment
8 of the transportation subsidy to the man who pays
9 it is preferable than the payment of the subsidy
10 to the transportation agency?

11 A. Not necessarily. It is just a
12 matter of mechanics, as I would see it.

13 Q. I would refer you to page 5 of your
14 precis, Mr. McCoy, and the first short paragraph
15 there:

16 "Consequently, when the average revenues
17 per ton-mile are examined, they must
18 be considered along with lengths of
19 haul."

20 A. Yes, sir.

21 Q. Do you have a waybill analysis
22 there -- 50-A?

23 A. Yes, sir, 50-A. Yes, sir.

24 Q. Would you please turn to page 21?

25 A. Yes, sir, I have it.

26 Q. Commodity No. 403, "Post poles and
27 piling, wooden."

28 A. Yes, sir.

29 Q. Would you please look at the Maritime
30 to eastern traffic there?



1
2 A. That is the one car load movement?

3 Q. Yes, the one car load movement. You
4 will notice that the weight was 36 tons, the
5 average revenue per ton mile was 2.59 which, as we
6 know, does not reflect the total revenue to the
7 railways but has to have added to it the Maritime
8 Freight Rates Act factor?

9 A. That is correct.

10 Q. The average haul per ton is 379
11 miles, and the average revenue per car mile was 93
12 cents?

13 A. Yes, sir.

14 Q. Would you then, please, look at
15 eastern to eastern, sixteen car loads, the weight
16 was 574 tons?

17 A. Yes, sir.

18 Q. I have done the necessary calculations
19 very roughly, which gives you an average weight per
20 car of 35.89 tons which comes pretty close to the
21 36 on the Maritime and Eastern. The average revenue
22 was 1.39 cents per ton mile.

23 A. Yes, sir.

24 Q. And the average haul per ton was 378,
25 one mile less than in the other case that we
26 discussed immediately preceding. The average revenue
27 per car mile was 52 cents.

28 A. Yes, sir.

29 Q. In other words, even when I consider
30 lengths of haul it does not necessarily give me an
intelligent answer?



1
2 A. Well, I would certainly want to have
3 all the detailed waybill analysis before I made any
4 comment either way on that. It looks to me there
5 is something radically wrong with the one car
6 movement to the Eastern.

7 I wish you would give me an opportunity
8 to get our cards on it, and we would be glad to
9 give you the whole story later on.

10 Q. If you consider it important, we
11 would appreciate it.

12 A. There looks to be something wrong,
13 frankly, sir.

14 Q. Would you please turn to page 6 of
15 your precis and the table there giving average haul
16 per ton and revenue per ton-mile, etcetera.

17 Now, in a sense this gives you a bit of
18 an index of the movement on freight rates as between
19 1951 and 1958; doesn't it?

20 A. It gives you what we have, based
21 upon the waybill analysis, yes, sir.

22 Q. Well now, are there not some factors
23 that might lead you astray when you look at the
24 per ton mile earnings, revenue per ton-mile as an
25 indicator -- and I will do nothing more, Mr. McCoy,
26 than to refer to a couple of notes I have here.
27 They would take too long for you to assess now, and
28 I have no copies. But perhaps at some point we
29 might get comment on this from someone.

30 The first one is a footnote at page 12
of the Economics of Transportation, fourth edition,



1
2 1954, by our old friend Professor D. Phillip Locklin --

3 A. Well, Mr. Mann, with respect to
4 Professor Locklin, I have a high regard for him,
5 but he would have the American view on transportation.

6 Q. I will give you the Canadian one
7 following Professor Locklin.

8 A. I am not trying to depreciate
9 Professor Locklin, but certainly I do not agree with
10 his ideas on transportation.

11 Q. The quotation reads as follows:

12 "Revenue per ton mile is not a satisfactory
13 index of freight rates since changes in
14 the proportion of low grade or high grade
15 or in the ratio of short haul to long haul
16 traffic affect the figure, although
17 freight rates remain unchanged. The
18 figures can be used, however, for the
19 purpose of showing the average receipts
20 per unit of traffic."

21 The second quotation comes from the
22 Dominion Bureau of Statistics index, "Numbers of
23 railway freight rates, 1913 to 1938", published
24 Ottawa 1938. And the quotation reads as follows:

25 "The revenue per ton mile, computed
26 by dividing the total freight revenue
27 of all railways by the total ton
28 miles of all freight carried, is sometimes
29 used as an index of freight rates, but
30



1
2 when the relative tonnages of high and
3 low class freight fluctuate widely from
4 year to year, it is not a reliable index
5 of freight rates".

6 Now, this is a little difficult to answer
7 at this stage ---

8 A. Of course, my silence does not
9 necessarily mean I concur in those remarks.

10 COMMISSIONER MANN: I realize that.

11 MR. SINCLAIR: As I take, Mr. Mann,
12 what you are asking in view of the remarks you put,
13 that at some stage you would wish the railway's
14 comment, either through counsel or through witnesses,
15 as counsel may advise.

16 COMMISSIONER MANN: Anyway it is
17 convenient, Mr. Sinclair.

18 COMMISSIONER MANN Q: Just one or two
19 more questions, Mr. McCoy.

20 Would you please refer to page 3132 of
21 Volume 22 of the January 19th transcript.

22 A. Yes, sir, I have it.

23 MR. MACDOUGALL: Is this comment you
24 wish just from the railways or specifically to Mr.
25 McCoy?

26 COMMISSIONER MANN: This one is to Mr.
27 McCoy.

28 THE WITNESS: Yes, sir, I have it.

29 COMMISSIONER MANN Q: Towards the
30 bottom of the page, you give an answer about



1
2 classification, and so on, and you state:

3 "I will go a little further", and so on.
4 The purport of your statement there is that
5 industrial traffic managers are allergic to class
6 rates?

7 A. To paying class rates. That is
8 the import of that.

9 Q. Am I right in recollecting that
10 when the classification was re-cast, effective
11 March 1, 1955 ---

12 A. That is the effective rate of the
13 current classification, that is right.

14 Q. The idea of the column ratings was
15 that there would be latitude to put in additional
16 ratings because you had the new columns expressed
17 as percentages of class 100?

18 A. Yes, sir, we were what you would
19 say coming up to date. In other words, we had a
20 uniform relationship to column 100, or first-class.

21 Q. Was it the hope of the Board that
22 some commodity rates might disappear into the
23 class rate structure, as it were, by means of
24 making different column ratings, say, $35\frac{1}{2}$, or something
25 like that?

26 A. It is my understanding, sir, you are
27 absolutely correct. But there has been a lot of
28 water gone under our bridge since that time.
29 Competition factors have practically forced that
30 to be disregarded.



1
2 I do not deny it would be an ideal
3 situation. In fact, every freight rate man in
4 North America, working on the railways, would have
5 a much easier time if that situation could be
6 brought about. But our competitors preclude us
7 from, say, getting into such an ethereal state.

8 Q. Do you have a class 20 rate on
9 pipe and CFA tariff 5J?

10 A. I recall, yes. I think it is class
11 20. I think you are right. I would have to check
12 the tariff report to make a firm statement.

13 Q. And this is the only rating, as
14 such -- I realize it is exceptional -- under the
15 class 27 in Canada?

16 A. That may be. And the problem there
17 was we had to put the Welland manufacturer in a
18 position whereby he could compete with his American
19 competitor. In other words, there was a large
20 movement of pipe from the United States coming into
21 western Canada, and we have no objection to hauling
22 any amount of freight we can get, but the Welland
23 manufacturer thought he should be in the picture.
24 And, after prolonged negotiations, it is my
25 recollection we established that rating.

26 Q. And why was it preferable to put
27 cars on exception ratings in CF tariff 5J?
28 rather than on an agreed charge or a competitive
29 rate?

30 A. Well, we felt the business would
be held to the railways, in any event, and the



1
2 mechanics were much easier, putting our column 20
3 in, than going through the mechanics of an agreed
4 charge. And it was mutually satisfactory to both
5 sides.

6 Q. Would it be correct, Mr. McCoy,
7 to suggest that perhaps the traffic managers, while
8 there may be traffic managers against class rates,
9 because they may ---

10 A. They think they are being penalized.
11 That is the story, as you know.

12 Q. Would it be right to say that when
13 you published a class rate or reduced a rating,
14 you must make it applicable to everyone in this
15 country?

16 A. I'm sorry, sir, I didn't quite
17 get the last part of your question.

18 Q. When you reduce a classification
19 rating, you reduce the rating, and the class
20 rating resulting therefrom becomes available to
21 any shipper across Canada?

22 A. Yes, sir.

23 Q. But when you make a competitive
24 rate, that competitive rate does not necessarily
25 become available to all shippers in Canada?

26 A. Not necessarily, because the railways,
27 by establishing the competitive rate, have not
28 necessarily changed the transportation business.
29 They have only put the business back on the rails.

30 Q. Is that one of the reasons that
class rates and new ratings under the classification



1
2 have been as little used as they have been?

3 A. Oh, I would not say that. I would
4 say that the reason they have not been used is
5 the pattern has changed materially since 1955.

6 Frankly, we are not a static organization --
7 the railway business. You have to change with the
8 times and that is all we have been doing.

9 Now, I do not know of any instances where
10 we have been successful, outside of the cast iron
11 pipe case, in getting an exception rate.

12 COMMISSIONER MANN: Thank you very much,
13 Mr. McCoy.

14 COMMISSIONER PLANT: I think I will forego
15 questioning this witness because I am sure I can
16 get the information I need from some of my colleagues.

17 MR. MACDOUGALL: I had some points to
18 ask Mr. McCoy, but, in respect to another matter he
19 has to make a 3:45 train, and so I will be very
20 brief with him.

21 RE-EXAMINATION BY MR. MACDOUGALL

22 Q. I do not want to get into further
23 discussion on the revenues per ton-mile that you have
24 been speaking about to others, but I think you would
25 agree with me that your evidence has been -- and I
26 think you have said this, that the revenue per ton
27 mile is just one of the basing points you use in
28 dealing with these rates?

29 A. Yes, sir. You could say a bench mark
30 or a guide post.

Q. You would not say it is the only
one?



1
2 A. I do not think I have made that
3 statement, definitely.

4 Q. In respect to large blocks of
5 traffic, it is more meaningful to you than the
6 others are individually?

7 A. Yes, sir, particularly where you have
8 a regular movement.

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11 (Page 3357 follows)
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2 Q. But in dealing with specific movements,
3 as I understand it, as a traffic man, you, if you can,
4 look at them all?

5 A. I can take any information I can get, yes.

6 Q. And the other ones are set out in your
7 precis of evidence, and I think you have referred to
8 them -- car miles and the others?

9 A. Yes, sir.

10 Q. When you discussed in your cross-examina-
11 tion by Mr. Cooper you were talking there about dis-
12 tortions and the freight rate structure, Mr. McCoy, and
13 without going into that in detail, you at one point
14 told him that the only distortions in the freight rate
15 structure were the statutory rates, and at other points
16 you spoke of being able to speak about distortions for
17 a week, if you had to, and I think you had some objec-
18 tion to the use of the word, you thought it was mis-
19 leadin g?

20 A. Yes.

21 Q. Have you any other words on this distor-
22 tion aspect?

23 A. I have read the passage you referred to
24 and there seems to be some confusion as to the distinction
25 between distortionand rate differences. Mr. Cooper was
26 apparently interested in distortion, and I was endeavouring
27 to describe rate differences in the freight rate struc-
28 ture. Perhaps I could put it this way: there are
29 many differences in rates in the freight rate structure
30 which produce different levels of return from various
segments of traffic, but these are not necessarily



1
2 distortions in the narrow or generally accepted use of
3 that term. Distortion might be defined as a deformity
4 in the rate structure or an arbitrary deviation from
5 the rate level that normal rate-making would produce.

6 Perhaps I should also say that things that
7 are looked upon as distortion by one person are not so
8 regarded by others. For instance, I would call the one
9 and one-third rule a distortion since it artificially
10 limits the revenue on certain traffic moving to Alberta,
11 whereas I am sure, from Mr. Frawley's point of view, he
12 would not regard it as a distortion at all.

13 Q. You have spoken about the decrease in
14 volume of Class rated traffic. Do I understand you to
15 have told the Commission where this volume of movement
16 and volume of return has gone?

17 A. Some of it has gone to our competitors,
18 most unfortunately, and I would say the larger portion
19 of it has been switched from lcl category to pool car
20 operators. In other words, there is a large movement
21 of what we call pool car traffic, and I think the
22 majority of the lcl business has been switched from
23 less than carload consignment to mixed carloads.

24 Q. The low spot rates -- you spoke of those
25 in discussing that matter with Mr. Frawley, and he showed
26 you a statement -- I forget the exhibit number now ---

27 MR. FRAWLEY: It is 86.

28 MR. MACDOUGALL: --- upon which there were
29 some rates which are recorded as returning what appears
30 to be a fairly high revenue per ton mile and others much
lower. Do you know whether or not any of these low



1
2 return rates that are on that list or any others that
3 you are aware of are presently subject to scrutiny by
4 the Board at the moment?

5 A. Not to my knowledge, no.

6 Q. I presume they would be subject to
7 inquiry by the Board under The Railway Act?

8 A. Yes.

9 MR. FRAWLEY: Not the agreed charges. They
10 are subject to an order in council by the federal
11 government.

12 MR. MACDOUGALL: Q. I suppose they, too,
13 could be looked at, Mr. McCoy?

14 A. Yes, sir.

15 Q. Can you say whether or not the grain rates
16 moving to Eastern Canada which you spoke of also to Mr.
17 Frawley have been increased at all in the last five
18 or ten years, or have they remained static?

19 A. No, they have been increased with all the
20 ex parte increases by the Interstate Commerce Commission.
21 In the rates from Buffalo we have taken all the increases

22 Q. So they are not static?

23 A. Definitely not; they are not static.

24 Q. Mr. Frawley also questioned you, Mr.
25 McCoy, as to some relationship that he drew between what
26 he called an unfair freight rate structure and lines
27 which were low in density of traffic?

28 A. Yes. He was referring to the exhibit
29 which was filed in the first Turgeon Commission.

30 Q. Is the density of traffic something which,
in your view, is directly related to some aspects of



1
2 freight rate structure particularly?

3 A. Not necessarily so, no, sir.

4 Q. What would be the principal factors
5 which affect traffic density in any particular line?

6 A. If the traffic existed. In other words,
7 you may have a line with very light traffic potential.
8 I am talking about lines even now served by highways.
9 You may have lines where there is a lot of traffic and
10 other lines where it is going through sparsely settled
11 areas and there wouldn't be much traffic originating.

12 Q. Now, one last point, Mr. McCoy. I
13 believe my friend Mr. Frawley put it to you that while
14 the railways were, he agreed, stopped from increasing
15 the passenger rates they were also stopped from in-
16 creasing the competitive rates and agreed charges
17 by economic factors?

18 A. Well, if we so elected and we found the
19 business non-compensatory we could get out.

20 Q. Under agreed charges they are a contract
21 rate?

22 A. Yes, usually for a period of one year.

23 Q. And are they ever changed?

24 A. Yes, definitely.

25 Q. What are the factors which allow you to
26 change them?

27 A. Changing conditions, changing market
28 conditions.

29 Q. They have changed up or down?

30 A. Yes.

Q. I would presume that if the elements
which have compelled them to be at a certain level --



1
2 the competitive factors may change?

3 A. They are not static. Our competitors
4 sometimes have the same problems as we have.

5 Q. They have the same rising costs as
6 railways have, I suppose?

7 A. Yes.

8 MR. MACDOUGALL: That is all I have. Thank
9 you, Mr. McCoy.

10 THE CHAIRMAN: Thank you, Mr. McCoy.

11 Where are we at, Mr. Sinclair?

12 MR. SINCLAIR: Well, just before the noon
13 adjournment, Mr. Chairman and members of the Commission,
14 I was discussing with Mr. Roberts some material, ques-
15 tions that I put to him that were really not covered
16 in the precis but they arise out of where it was
17 summarized shortly, and I expanded it, and I am now
18 dealing with the general topic of competitive rates and
19 agreed charges, and Mr. Roberts in that had made
20 reference to Section 334 of the Railway Act which sets
21 out the rules governing the publication of competitive
22 rates.

23 THE CHAIRMAN: The same section that you
24 talked about with Mr. McCoy?

25 MR. SINCLAIR: Yes; and it may be, in view
26 of the interests of the Commission, I could ask Mr.
27 Roberts this question.
28
29
30



JAMES MERRICK ROBERTS, resumed

DIRECT EXAMINATION BY MR. SINCLAIR (Cont'd):

Q. From your experience, Mr. Roberts, this section 334 -- the Commission had indicated they wanted the view of whether that section and the requirements under that section had, in your view, been a limitation upon the railway, in your experience, in your rate-making experience.

A. Well, in my experience, sir, I wouldn't say that it has been any restriction in the efforts, I should say, of the railway in meeting competition, because we do have the authority to publish rates, competitive rates, ^{on} at three days' notice.

Q. Now, I don't know that the Commission heard you.

A. We do have authority to publish competitive rates at three days' notice. We likewise have authority under the terms of the Board's Tariff Circular to put a rate in and publish it without notice, as a comparative rate. Likewise, we have the use of the special rate notice between non-competitive points. If it is going to be a continuing movement, we indicate in the special rates notice the item, the tariff number and the CTC number that the published rate will eventually appear in.

Q. Again, Mr. Roberts, looking at these various requirements that you have delineated in Section 334 of the Railway Act, if you were going to make a competitive rate, what would you say as to the type of information you would get as contrasted with



1
2 what is here delineated?

3 A. Well, I would certainly endeavour to get
4 every item in there, to the best of my ability.

5 Q. Would you do that whether this section
6 was here or not?

7 A. No, sir. I would work on that theory
8 wherever I was.

9 Q. Say that this section came out of the
10 Railway Act, was struck out, would the way and the
11 information that you get before you make competitive
12 rates alter?

13 A. No; I couldn't afford to, Mr. Sinclair.
14 I would want to, for my own protection, get information
15 like that.

16 Q. I ask you that question because of the
17 way I may have phrased the question, and you answered:
18 "No, sir" to me. I ask you: if this were in here or
19 not, would you change your information you get, and I
20 now take it that your answer is that you would not
21 change?

22 A. That is right.

23 Q. And dealing with competitive rates, is
24 it necessary for you to file all the information that
25 you get, or what is the situation?

26 A. No, it isn't necessary to file the infor-
27 mation we secure, but we have it in our records.

28 Q. And you file it when?

29 A. If required by the Board.

30 Q. Now, just one other point to carry this
through. In regard to the requirements in the Transport



1
2 Act, under the law, as we sometimes phrase it, with
3 respect to agreed charges, the information that is
4 delineated, is that information you would get or not
5 get in dealing with agreed charges?

6 A. We would get it, sir.

7 Q. Do you file it or have to do some
8 necessary paper work in connection with it?

9 A. Not under the present regulations.

10 Q. And that has to do with the changes
11 that were brought about by the second Turgeon Commis-
12 sion, for which we can thank Mr. Frawley?

13 A. Yes, sir.

14 Q. And in regard to the agreed charges under
15 the law as they have been altered to meet the changing
16 circumstances and conditions, and after the full in-
17 vestigation by the second Turgeon Commission, do you feel
18 that it is a reasonable approach to that type of rate-
19 making?

20 A. I definitely think it is, yes, Mr.
21 Sinclair.

22 Q. Now, when you are approaching the ques-
23 tion of whether a competitive rate has to be filed or
24 not, in a summary way how do you approach it?

25 A. Well, the railways, operating as they do
26 on a countrywide basis, must thoroughly analyse and
27 review competitive situations, bearing in mind the
28 necessity of obtaining the maximum net revenue while
29 giving due weight to the impact which a reduction in
30 rates might have on the traffic they are already
31 handling.

(Page 3370 follows)



1
2 It has been recognized that the publication
3 of a competitive rate by the railways to meet truck
4 competition has frequently not had the desired
5 results. The efforts of the railways to protect their
6 position in the transportation of higher rated
7 commodities by rate reductions, frequently were
8 nullified by the fact that the reduced rate level
9 was still sufficiently high to permit their competitors
10 to make further reductions. The competitive rate
11 obtained from the railways has at times been used by
12 shippers in negotiating a still lower level of rates
13 from their competitors. Some protection from these
14 difficulties is given to the railways by means of
15 Agreed Charges, which are agreements signed by all
16 contracting parties. Under this agreement, the
17 shipper contracts to forward by rail a set percentage
18 of the traffic involved. Penalties are provided for
19 if the agreement is not carried out.

18 Q. And now, Mr. Roberts, have you any
19 railway rates, making use of competitive rates or
20 agreed charges, to meet the traffic shippers'
21 requirements in meeting competition from outside the
22 country?

23 A. --Yes we have, Mr. Sinclair. Canadian
24 industry faces competition from foreign goods
25 entering Canada. In many instances, the
26 transportation costs from foreign countries by water
27 or water and rail to markets in Canada are lower
28 than the rail charges from the Canadian plants to
29 the consumer, which, due to the geographical
30



1
2 development of Canada, often entails lengthy rail hauls.
3 To enable Canadian producers to meet foreign
4 competition, the railways frequently make competitive
5 rates or Agreed Charges at the level necessary to
6 meet this foreign competition, for example, ferro
7 phosphorous from Buckingham, Quebec to the British
8 Columbia coast to meet competition from Idaho and
9 Montana.

10 Q. Is that an agreed charge?

11 A. No sir, that is a competitive rate.

12 Q. Competitive rate?

13 A. Yes.

14 Q. Now, I think just at this point,
15 there was some request for information yesterday
16 concerning agreed charges on edible oils, and there
17 was some evidence given on an agreed charge this
18 morning by Mr. McCoy, on agreed charges on rape
19 seed oil, with which Canadian Pacific and Canadian
20 National joined Saskatoon, and are there any other
21 agreed charges on those oils from southern Manitoba
22 points to eastern Canada?

23 A. Well yes, there is one, Mr. Sinclair,
24 it is on sunflower seed oil and for soya bean oil,
25 from Altonna, Manitoba, which is south of Winnipeg
26 and almost at the border, and that is down to Toronto
27 and Montreal. The agreed charge number is 330, Mr.
28 Sinclair.

29 Q. There is one other type of competition.
30 When you talk about competition, Mr. Roberts, and
just before we leave this part, speaking generally,



1
2 what kind of competition are you having in mind when
3 you use the phrase in traffic circles "competition"?

4 A. Well, it could be competition from
5 other carriers; that is to say, highway operators,
6 water carriers and it could be railways operating
7 into Canada from the United States, it could be the
8 competition of foreign goods coming into Canada, and
9 it could be competition on substitute products.

10 Q. So, as a traffic man, when you use
11 the word "competition", that may encompass all of
12 them or any one of them, depending on the circumstances?

13 A Yes.

14 THE CHAIRMAN: Would you regard the C.N.R.
15 as competition?

16 THE WITNESS: Well, sir, competition in the
17 securing of business, yes, Mr. MacPherson, very likely
18 so.

19 MR. SINCLAIR Q: I now would like to
20 discuss with you for the Commission, Mr. Roberts, the
21 subject of export and import rates in a summary
22 and general way, and having in mind what we are
23 attempting to do here is to deal with the basic
24 principles of rate making and the relations that would
25 be made to those basic principles at other times,
26 of course, will develop.

27 Now, export and import rates, will you
28 just in a general way discuss those, please.

29 A. In establishing these rates which
30 are sometimes lower than the level governing local
movements to or from the ports, cognizance must be



1
2 taken of the fact that the rail rate constitutes
3 only a portion of the total transportation charge
4 and must be considered in relationship to the overall
5 picture if traffic is to move freely. To secure
6 the maximum volume of traffic on movements common to
7 both countries, the Canadian railways maintain a
8 rate relationship with American ports even if in some
9 cases the resulting rates are lower than would
otherwise be established.

10 Q. When you say this, what is the
11 objective of import or export rate level?

12 A. The objectives of import-export rates
13 are threefold - first, to assist Canadian exporters;
14 second, to maintain flow of traffic through Canadian
15 ports, and third, to develop traffic for Canadian
railways.

16 Q. Now, there has been some reference
17 made to the subject of unjust discrimination and
18 undue preference; would you please, Mr. Roberts,
19 summarize in your view how these factors are applied
20 in rate making in Canada?

21 A. Traffic moving at class rates, where
22 the rates are based on a uniform mileage scale, must
23 of necessity be charged for at the same rate for each
24 shipper, distance and commodity considered. When
25 special commodity or competitive rates are made,
26 the problem arises as to whether the giving of a lower
27 rate than the class rate to a particular shipper or
28 area creates an unjust discrimination or an undue
preference insofar as other shippers or areas are

29
30



1
2 concerned. The Railway Act provides that any
3 difference in rates or service given to a particular
4 commodity, shipper or area, thereby creating a
5 discrimination or giving a preference, must not
6 result in an unjust discrimination or an undue
7 preference. The railways are clearly free to
8 discriminate or give preferences as part of their
9 pricing activities, but they must ensure in doing so
10 that the result is not unjust. Where the railways
11 charge one person lower rates for the same or
12 similar goods or lower rates for the same or similar
13 services, or make any difference in treatment, the
14 burden of proving that the lower rates or difference
15 in treatment does not amount to undue preference
16 or unjust discrimination is upon the railway.

17 MR. SINCLAIR: That, Mr. Chairman, is
18 dealt with in Section 322 of the Railway Act.

19 Q. Are there examples of where differences
20 in rate or differences in treatment have been dealt
21 with by the regulatory authority in respect to the
22 subject of unjust discrimination or undue preference.

23 A. There are many examples of
24 difference of treatment in respect of shippers or
25 areas which have been found by the Board upon
26 examination to be perfectly justified and not in
27 contravention of these provisions of the Act.

28 Q. Now, basic to your approach to
29 rate making, whether you are dealing with a class
30 rate, commodity rate, either mileage or a specific
commodity rate, or a competitive rate, or an agreed



1
2 charge; basic to all the type of rate making that you
3 do, what is the approach of the traffic man in
4 respect to fixing of the rate in relation to the
5 cost?

6 A. Well, the endeavour of the traffic
7 man, Mr. Sinclair, is to maximize the movement
8 and at the same time maximize the net revenue of the
9 railways.

10 Q. What is the comment to all the types
11 of rates in these broad aspects in the overall basic
12 floor?

13 A. Well, basic floor, sir?

14 Q. Yes, in fixing the rate level?

15 A. Well, it would be certainly your
16 cost of the movement.

17 Q. Yes, and when you say cost of movement,
18 what do you mean by that?

19 A. Well, you mean getting something over
20 the variable cost of moving the particular traffic
21 you are dealing with.

22 Q. Are there any exceptions to that in
23 rates which you have the right to fix the level on?

24 A. No sir, not to my knowledge.

25 Q. You said not to your knowledge. If
26 there are any exceptions and they are brought to your
27 attention, what do you do about it?

28 A. We would take steps to rectify it
29 by putting them on a level that would keep the traffic
30 moving and give us a reasonable return.

MR. SINCLAIR: Now, Mr. Chairman, and members---



1
2 THE CHAIRMAN: I think that this is a
3 fresh subject.

4 MR. SINCLAIR: Yes, it is a completely new
5 subject.

6 THE CHAIRMAN: We will adjourn, then,
7 until tomorrow.

8 MR. SINCLAIR: So that I can give some
9 assistance to the Commission in their thinking, and also
10 my friends, in the light of when they might reach
11 cross-examination of Mr. Roberts, I would think that
12 I should certainly be finished his examination-in-
13 chief within an hour, and just so that my friends,
14 if they are making plans, certainly Mr. Roberts will
15 look forward to answering their questions, I would
16 say, sometime tomorrow morning.

17 THE CHAIRMAN: Well, the morning, I think,
18 will be undertaken ---

19 MR. SINCLAIR: Surely not all morning?

20 THE CHAIRMAN: We will be some time, I am
21 afraid.

22 MR. SINCLAIR: That raises other problems,
23 and therefore in view of that I will say that I
24 was certainly hoping to have Mr. Roberts' evidence-in-
25 chief completed and the cross-examination of him
26 well along before the day went on, and I was wondering
27 if as a special concession that the Commission might
28 want to start just a little bit earlier, and if the
29 Commission would give consideration to that, fine,
30 but ---

MR. FRAWLEY: Well I don't think I can be



1
2 accused of not helping when I can; I certainly try.
3 Most of the people who are here are living in the
4 Chateau Laurier Hotel, but I have an office to keep
5 up and I have to go to that office every morning, and
6 it is very difficult.

7 MR. SINCLAIR: Very well.

8 THE CHAIRMAN: We will adjourn now.

9 MR. SINCLAIR: I should say to Mr. Roberts
10 that there is a chance that he will be back giving
11 evidence sometime before tomorrow morning is over.

12 THE CHAIRMAN: Oh yes, indeed.

13 MR. SINCLAIR: The witnesses waiting here
14 certainly should possibly be ready to proceed.

15 THE CHAIRMAN: They should be here.

16 MR. SINCLAIR: Yes.

17 THE CHAIRMAN: We will adjourn now.

18 ---Whereupon the Hearing adjourned at 4:00 p.m.
19 to resume at 10:00 a.m. Thursday, January 21, 1960.
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Mr. McLaughlin

ROYAL COMMISSION

ON

TRANSPORTATION

HEARINGS

HELD AT

OTTAWA

VOLUME No.: DATE:

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ROYAL COMMISSION ON TRANSPORTATION

Proceedings of hearings held in
the Court Room, Board of Transport
Commissioners Offices, Ottawa,
Ontario, on the 21st day of
January, 1960

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Ottawa, Ontario,
Thursday,
January 21, 1960

---On commencing at 11.00 a.m.

JAMES MERRICK ROBERTS, resumed

THE CHAIRMAN: Yes, Mr. Sinclair.

MR. SINCLAIR: At the conclusion of the Commission's sittings yesterday, Mr. Chairman, I had just concluded the direct evidence concerning the basic principles of rate-making with Mr. Roberts and was turning to the subject of the level of rates for the movement of export grain in Western Canada, grain moving to export positions, which would be just and reasonable, and the reasons therefor.

DIRECT EXAMINATION BY MR. SINCLAIR (Cont'd)

Q. Mr. Roberts, how would an experienced traffic man approach the problem of fixing a level of rates which would be just and reasonable for the movement of grain to export positions in Western Canada?

A. Rates on grain traffic moving to export positions in Western Canada have remained fixed since 1927 and are at the level established in 1899 or lower. This large segment of traffic has not borne any part of the increase in cost of transportation which has occurred since 1927 and which has resulted in increased rates on other traffic. Therefore, the rates on western export grain traffic have not retained their proper place in the freight rate structure.



1
2 Accordingly, in determining a level of just and reason-
3 able rates for western export grain traffic it is
4 necessary first to establish a level of rates on such
5 traffic which will result in such rates having a proper
6 place in the freight rate structure.

7 Q. How would you approach that?

8 A. As has already been stated, the foundation
9 of the freight rate structure is the Canadian Freight
10 Classification, which applies in conjunction with the
11 maximum rates, which are the class rates. From prior
12 to 1900 until 1955, grain and its products were rated
13 at 8th class in the Canadian Classification and in the
14 current Classification which became effective March 1,
15 1955 grain has retained its historical position at
16 column 30, which is the equivalent of the 8th class rating
17 which existed prior to March, 1955.

18 In rating grain and its products at 8th class,
19 now column 30, the various factors referred to pre-
20 viously in determining Classification ratings were
21 taken into account.

22 Q. Now, was the basic movement of grain at
23 any time in Western Canada at the class rate?

24 A. Do I understand that question correctly?
25 Has there been any ---

26 Q. Was the basic movement of grain in Western
27 Canada at class rates?

28 A. No. The importance of the grain movement
29 in Western Canada was recognized by the railways from
30 the outset and there have always been in effect com-
modity rates applicable on this traffic moving between



1
2 points in Western Canada so that the traffic could move
3 freely. There are two separate and distinct movements
4 of grain within Western Canada and for each a commodity
5 level of rates lower than the class rates has been
6 provided from the very early days:

7 (a) The domestic grain mileage scale
8 which applies for local movements within
9 the territory west of the lakehead on
10 grain for domestic consumption.

11 (b) Specific rates to move grain to export
12 positions.

13 Q. Now, Mr. Roberts, the rates which we are
14 discussing at this time for the assistance of the Com-
15 mission are those rates applying to grain moving to
16 export positions in Western Canada; in other words, the
17 ones that you have described just a moment ago as
18 specific rates to move grain to export positions; is
19 that right?

20 A. That is correct, sir.

21 Q. But if the Commission or my friends want
22 any specific information more than we have given them
23 concerning the domestic rates on grain in Western
24 Canada, you are prepared to give them that?

25 A. Yes.

26 MR. SINCLAIR: And if the Commission wishes
27 me to expand that with the witness, I will be very glad
28 to do so.

29 Q. Now, grain moving to export positions in
30 Western Canada, how does it move geographically?

A. Well, grain shipped to export positions in



1
2 Western Canada generally moves eastward to the lakehead
3 or westward to Pacific coast ports, dependent upon the
4 location of the shipping point.

5 Q. What point on the main line of the
6 Canadian Pacific in Saskatchewan is the break point on
7 traffic going east to the lakehead as against Vancouver?

8 A. Maple Creek, Saskatchewan.

9 Q. Does the break point apply as one point
10 right throughout Saskatchewan, or does it just happen
11 that happens to be one point?

12 A. On the main line there is only the one
13 station, and that is Maple Creek; but on other branches,
14 for example, the secondary main line, I think there is
15 Lemsford and Portreeve, which are two. There is
16 another one.

17 THE CHAIRMAN: On the Empress Branch?

18 THE WITNESS: Yes, on the Empress Branch.
19 And further north, Mr. Sinclair, there are areas where
20 there is more than one station. I wouldn't say off-
21 hand how many, but there are more than one.

22 MR. SINCLAIR: Q. Could it be described
23 roughly that the break point would be close to the
24 Alberta-Saskatchewan border?

25 A. Yes, sir. In the north it takes in a
26 little bit of Alberta, the eastern portion of Alberta.

27 Q. Now, in the light of what you have just
28 said concerning your approach to this problem of fixing
29 a just and reasonable level for this movement of the
30 traffic, traffic movement, what would you do first, what
31 would your first step be in detail as to how you would



1
2 approach the problem?

3 A. The first step was to find the relation-
4 ship between the Crow's Nest rates in effect on September
5 1, 1899, and the then existing 8th class rates for similar
6 distances.

7 Q. If you will look at Exhibit 83 which was
8 filed yesterday, which is entitled: "The comparison of
9 Crow's Nest grain to Fort William with applicable class
10 rates from September 1, 1899." That is Exhibit 83.
Have you got that before you?

11 A. Yes.

12 Q. Would you please comment on that?

13 A. Before I comment may I just make one
14 correction, sir?

15 Q. Yes, certainly.

16 A. Line 4 on the exhibit which is Wolseley,
17 Saskatchewan, the rate shown is 47 cents on September 1,
18 1899.

19 Q. That is line 4 on the statement under
that column, 47 cents?

20 A. Yes. It should be 48 cents.

21 Q. And that, of course, would change the
22 percentage, wouldn't it?

23 A. That is right.

24 Q. What would the percentage come to with
48 cents?

25 A. 39.6.

26 Q. 39.6 instead of 40.4?

27 A. Yes.

28 Q. Would you speak to Exhibit 83 as it has
29
30



1
2 been altered in the manner you have just stated?

3 MR. FRAWLEY: What is the statement?

4 MR. SINCLAIR: 300.

5 THE WITNESS: Exhibit 83 shows the 8th class
6 rate to Fort William from representative grain shipping
7 stations on September 1, 1899, with the applicable grain
8 rate from each station and the percentage relationship
9 the grain rates bore to the 8th class rates.

10 It will be observed that the Crow's Nest
11 rates to the lakehead represented approximately 40 per
12 cent of the 8th class rates. The statement also
13 shows the result of this relationship if applied to
14 the present column 30 class rates.

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Q. From the same stations ?

A. Yes.

MR. SINCLAIR: Now, Mr. Chairman and Members of the Commission, you will recall that in the years between 1899 and 1925 in the grain moving to export positions in Western Canada, the rates on that traffic changed in the manner and as described in the evidence of Mr. Edsforth. He went into that in detail.

MR. SINCLAIR Q: Mr. Roberts, what I wish you to draw to the attention of the Commission is this fact. Were there changes in the percentage relationship of the statutory grain rates to the prevailing 8th class rate between 1899 and 1925?

A. Yes, Mr. Sinclair, because of the over-all increase in the general level of class rates as a result of the general revenue cases in 1918, 1920, 1921 and 1922, as Mr. Edsforth described. In 1927, the level of the statutory rates as prescribed by Parliament in 1925 and implemented by the Board General Order 448, August 25th, 1927, became fully operative.

MR. SINCLAIR: Mr. Chairman, you will recall that in 1925 the Railway Act was amended, as Mr. Edsforth stated, and the provisions put into there in regard to the movement of grain in Western Canada that resulted in a continuing basis for grain rates to export positions in Western Canada, eastbound, westbound, from branch points, and the same mile for mile relationship relation throughout Western Canada. That was the evidence. I was just trying to very



1
2 shortly summarize the evidence of Mr. Edsforth.

3 MR. FRAWLEY: It must be said that we never
4 accept that. We do not agree there was any change
5 in the 1925 statute. It simply re-confirmed the
6 1897 agreement.

7 THE CHAIRMAN: It is very interesting to
8 consider the approach of the different parties to these
9 rates, and how careful the railways are to refer to
10 them only as grain rates or as a statutory rate, and
11 how careful the provinces and the line elevator men
12 are to refer to them as Crow's Nest rates. I mean,
13 they seem to be split right down the middle.

14 After all, I do not know if that is a legal
15 question. It may be an academic question, to decide
16 which is which. The fact is there.

17 MR. SINCLAIR: Certainly insofar as the
18 Canadian Pacific is concerned we refer to them as
19 statutory rates because that is what they are, and
20 we could also describe them in un-parliamentary
21 language, because that is also what they are.

22 THE CHAIRMAN: We are talking about the same
23 thing. Whether you call him William or Bill, it is
24 the same man.

25 MR. SINCLAIR: Whatever you want to call
26 them, they are there.

27 THE CHAIRMAN: I think so far as the
28 Commission is concerned, we can treat the difference
29 in nomenclature as being academic.

30 MR. SINCLAIR: Certainly if it makes anybody
happier to call them Crow rates and say that that is



1
2 what they are properly known as, I am sure we would
3 understand anybody who was describing them. We would
4 not be misled..

5 THE CHAIRMAN: You know what Mr. Frawley
6 is talking about?

7 MR. SINCLAIR: No, I do not.

8 MR. FRAWLEY: You might call them an 1897
9 agreed charge, if I may use that word.

10 MR. SINCLAIR: Well, Mr. Chairman, so that
11 I can assist the Commission at this time, and I
12 really do not think this is the time, but my friend
13 feels he has to state this, that Mr. Edsforth also
14 gave evidence as to the result of the number of
15 stations which under the agreement of 1899 would have
16 had a level of rates, and the number of stations which
17 under the Statute would have that level of rates.
18 And Mr. Edsforth also described a number of stations
19 which under the agreement would have had a higher
20 level of rates than they have under the Statute.

21 Now, it is abundantly clear, I would suggest,
22 that so far as I am concerned the position of Canadian
23 Pacific is that when a contract is made that contract
24 may be put an end to by Parliament, and so we are not
25 going to have that contract any more. We are going
26 to say this is what is going to happen. That is
27 exactly our position as to what took place. If Mr.
28 Frawley does not agree with it, then he will say the
29 reasons for it at a later date. I recognize he
30 is taking a contrary position, but when you say to me
do I understand what he is saying, I certainly do not



1
2 understand him at all. It is certainly so clear,
3 I cannot understand Mr. Frawley being so confused.

4 MR. FRAWLEY: Thousands of others are
5 also confused.

6 THE CHAIRMAN: The Supreme Court decision
7 in 1945 did produce a condition of confusion for the
8 railways as well as for everybody else.

9 MR. SINCLAIR: It did not produce a
10 condition of confusion for the railways. What the
11 Supreme Court did, Mr. Chairman, with respect, was to
12 uphold the position of the railways which resulted,
13 in their words, in chaotic conditions to the shippers.

14 MR. FRAWLEY: Then, the railways created
15 a confusion by limiting the application of those rates
16 to certain services.

17 MR. SINCLAIR: This is not the time to ---

18 MR. DICKSON: I do not think this is the
19 appropriate time to argue this. I think Mr. Sinclair
20 would admit it is an arguable legal problem. I think
21 it is a complex legal argument which will be fully
22 argued at the appropriate time.

23 I will only say this. I would not for
24 one second wish this Commission to think that we agree
25 with anything Mr. Sinclair has said on the subject.
26 We consider these as contractual rates, the effect
27 of which they have been extending beyond the terms of
28 the contract. We continue to feel, and will submit
29 to your Commission at the appropriate time the
30 submission that the Crow's Nest Pass agreement is
just as valid today as the day it was signed.



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THE CHAIRMAN: I think the Commission realizes how far apart the parties are. But, really, the situation is more or less academic, because we are talking about the same thing.

MR. DICKSON: We would question, with all respect, that it is an academic question.

THE CHAIRMAN: You take the position it is purely legal and will argue on that basis?

MR. DICKSON: Yes.

MR. SINCLAIR: Of course, Mr. Chairman, the position is factual. It is factual, and I do not know where ---

THE CHAIRMAN: Well, it will be discussed in stages at the proper time.

MR. SINCLAIR: And if Mr. Dickson or anybody else wants to make an argument, of course, they will have their opportunity to do so. That is what I said to Mr. Frawley. I do not think this is the time.

MR. DICKSON: Mr. Chairman, I will make an argument at the appropriate time, and I agree entirely this is not the appropriate time, and the only reason I got to my feet is that the argument was initiated by Mr. Sinclair in his question to Mr. Roberts.

MR. FRAWLEY: That is the only reason I spoke.

THE CHAIRMAN: Perhaps we should get on with Mr. Roberts.

MR. SINCLAIR: Well, Mr. Chairman, I must disagree with Mr. Dickson in the view that I initiated



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2 the argument in the question. I am eliciting through
3 this witness the facts.

4 THE CHAIRMAN: Well, proceed, Mr. Sinclair.

5 MR. SINCLAIR: Mr. Dickson or Mr. Frawley
6 or anybody else can argue against the facts or call
7 such evidence to put in such contrary facts as they
8 may be so advised. And they have also heard from
9 Mr. Edsforth in this matter, and they had their
10 opportunity at that time.

11 MR. SINCLAIR Q: I wish to turn to
12 exhibit 84. Would you comment on that?

13 A. Exhibit 84 shows the 8th class rate
14 to Fort William from representative grain shipping
15 stations on September 12, 1927, with the applicable
16 grain rate from each station and the percentage
17 relationship the grain rates bore to the 8th class
18 rates.

19 This statement shows that the relationship
20 of the grain rates to the 8th class rate was
21 approximately 32 per cent in 1927 compared with
22 approximately 40 per cent in 1899. This reduction
23 in the percentage relation to the applicable 8th
24 class rate was caused by the general increase in
25 the class rates previously referred to while the
26 statutory grain rates were on the level set under the
27 agreement. Exhibit 84 also shows what the grain
28 rates would be if the relationship of 32 per cent
29 was applied to the present column 30 class rates from
30 these same stations.

(Page 3398 follows)



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2 Q. Now, Mr. Roberts, do the statutory grain
3 rates increase with distance measured by equal mileage
4 blocks?

5 A. No, sir. Under the statutory grain
6 rates, the progression for mileage blocks is not regular.
7 The effect of this is indicated in the differing per-
8 centages of disparity which are shown in Exhibits 83
9 and 84.

10 Q. That is in the last column of those two
11 exhibits; the disparity between the rates set out there
12 is worked out?

13 A. Yes, percentagewise.

14 Q. Yes.

15 A. In view of the irregularity in the
16 statutory grain rate scale, consideration was given to
17 other methods of arriving at a just and reasonable
18 level of rates, including the construction of an en-
19 tirely new scale with a smooth progression.

20 Q. Now, you were approaching this as an
21 experienced traffic man to have these rates on a just
22 and reasonable level, and you looked at these and
23 considered whether a smooth progression, a scale of
24 smooth progression, could be worked out?

25 A. That is right, sir.

26 Q. If you applied smooth progression, what
27 would happen?

28 A. It would have disturbed in some degree
29 long-established groupings.

30 MR. FRAWLEY: Could he explain that?

MR. SINCLAIR: Q. What do you mean, Mr.



Roberts, by long-established groupings?

MR. FRAWLEY: Give us some examples.

THE WITNESS: Well, for example, the first group that was in the Tariff in 1899 was the Winnipeg group of 14 cents, and the mileage encompassed, the distance encompassed by that rate, was 122.6 miles.

Now, the next rate was 15 cents, the 15-cent group, and the distance covered by that was 55.6 miles.

The next one was Brandon, 16 cents and the distance was 77.5 miles.

These groups, and so on, all along the line, Mr. Frawley, the rates have remained ---

MR. SINCLAIR: Just a minute. You can ask him this later; I thought that it might have assisted you ---

THE WITNESS: Rates have remained the same, Mr. Frawley, and shipments have been predicated on these groupings for sixty years.

MR. FRAWLEY: It is not fair to break the course of your evidence, but I thought if you were giving illustrations, if you had any further west than Winnipeg, that is all.

MR. SINCLAIR: Q. When you informed the Commission, Mr. Roberts, of the specific rates to move grain to export positions, were there any smooth progressions at that time, was the scale a smooth progression?

A. No, sir.

Q. And has that basic scale remained in effect all through the years?

A. So far as the main line is concerned, yes.



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2 The scale was different originally from branch line
3 points, but in 1925 under Parliament's description and
4 as carried out by the Board, why, those rates from
5 branch line stations were brought down to the main line
6 basis.

7 Q. The basic scale with the groupings that
8 were in there prior to 1900 are still the basis of the
9 grain rate scale for the statutory grain rates?

10 A. That is right, sir.

11 Q. Subject to the reasons for changes that
12 have been explained in detail in Mr. Edsforth's testi-
13 mony concerning the branch lines and also westbound
14 lines?

15 A. That is right.

16 Q. You set aside this development of the
17 scale with the smooth progression so as not to disturb
18 long-established groupings for shippers moving their
19 grain to export positions. Then what did you do?

20 A. Bearing in mind the cost of transporting
21 grain moving at statutory and related rates as shown in
22 the evidence of Mr. Stenason, the result of applying the
23 1899 relationship of 40 per cent and the 1927 relation-
24 ship of 32 per cent to the existing class rates as set
25 out in Statements 300 and 301 respectively, was then
26 examined.

27 Q. And what was the result of looking at the
28 relationship of 1927?

29 A. Exhibit 83 shows that the use of the
30 40 per cent basis would result in disparities in the
31 present rates ranging from 142 per cent to 215 per cent.



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2 Taking Regina as an example, 40 per cent of the present
3 column 30 rate of \$1.43 would be 57 cents per 100
4 pounds. The revenue per ton mile for the distance of
5 776 miles involved from Regina to Fort William is
6 1.47 cents or 0.47 cents over average total cost,
7 which is high having regard to the characteristics of
8 the traffic.

9 Q. And what does applying the 32 per cent
10 relationship show, that is set up in Exhibit 84, and
11 your comments, please?

12 A. Exhibit 84 which shows the result of the
13 32 per cent basis, indicates the range of disparity to
14 be 107 per cent to 154 per cent. The use of a 32 per
15 cent relationship would result in differing percentages
16 of disparity over the existing statutory rates from
17 individual shipping points. For this reason this
18 basis was not considered further.

19 Q. In the light of that, what did you do
20 then?

21 A. To avoid a disruption in the long
22 established groupings, it was then deemed advisable to
23 examine the result of applying the same percentage of
24 increase from all shipping points.

25 Before doing this, however, decision had to
26 be reached as to whether the 1899 or the 1927 relation-
27 ship to 8th class should be used. The 1927 relation-
28 ship was decided upon because the relationship between
29 the prescribed rates for the movement of grain to export
30 positions in Western Canada and the class rates must
31 then have been considered and deemed reasonable.

32 Q. Considered and deemed reasonable by whom,
33 Mr. Roberts?



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2 A. Well, I would say by Parliament, Mr.
3 Sinclair, because Parliament in 1925 set the basis for
4 the rates both eastbound and westbound, and in doing so
5 -- I feel, anyway -- that they must have given considera-
6 tion to the relationship with the rest of the freight
7 rate structure.

8 Q. Well, would Parliament be knowledgeable
9 of relationships of specific traffics to the freight
10 rate structure?

11 A. Well, they themselves would have some
12 experience; I am sure the Transport Department -- they
13 do have available to them, Mr. Sinclair, the Board of
14 Transport Commissioners and its advisers.

15 Q. Are you talking about 1925?

16 A. Yes, sir.

17 Q. Do you know whether Parliament or members
18 of Parliament consulted these experts from the Board
19 before they took this basis of rates and made them
20 statutory?

21 MR. FRAWLEY: That is surely -- that is a
22 most remarkable question which my friend Mr. Sinclair
23 asks the witness; if Mr. Roberts knows whether or not
24 Parliament in 1927 consulted the Board of Transport
25 Commissioners. Unless there is some record; maybe
26 that is the answer.

27 MR. SINCLAIR: My friend is objecting to the
28 question, and he is stating that his objection is based
29 on ---

30 MR. FRAWLEY: Well, I withdraw the objection.

MR. SINCLAIR: Q. Will you answer the



question, Mr. Roberts?

A. No, sir, I don't know, Mr. Sinclair, if they did discuss it, but I would say that having these facilities available to them that they would take advantage of them.

MR. SINCLAIR: I couldn't ---

MR. FRAWLEY: Do better than that yourself!

MR. SINCLAIR: I couldn't point it up any better. I thank my friend for putting it so well; I am certainly grateful to him, and I think that Mr. Roberts has indicated the complete frankness with which he is dealing with this matter. Thank you, Mr. Frawley.

Q. How would you go about maintaining the established relationship to which you refer?

A. To maintain established relationships through applying the same percentage of increase from all shipping points, it was necessary to select key shipping points. When the Crow's Nest grain rates were introduced in 1898, Winnipeg was the centre of the Western grain growing area. As the West developed, the centre shifted westward and is now the Regina area.

Q. Well, if you take Regina as the key point, what is the result, Mr. Roberts?

A. If Regina were taken as the key point and the precise relationship of 31.7 per cent to the 1927 8th class rate from Regina were applied against the existing column 30 of \$1.43 per 100 pounds, it would result in an increase of 125 per cent over the statutory grain rates, making the rate 45 cents per 100 pounds



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2 instead of 20 cents per 100 pounds as at present. The
3 effect of this basis on other shipping points was then
4 examined. In the territory east of Regina, an increase
5 of 125 per cent would result in higher rates than if
6 the precise percentage relationship to 8th class at
7 these shipping points were used, particularly from
8 points in Manitoba.

9 Q. Yes, and in the light of the results that
10 would flow from taking Regina as the key point, what
11 did you then do?

12 A. There is no doubt that the Western grain
13 rates to export positions were originally based on
14 Winnipeg as a key point. The statutory grain rate
15 of 14 cents per 100 pounds from Winnipeg to Fort
16 William was 31.1 per cent of the 8th class rate in 1927.
17 Applying this percentage against the existing column
18 30 rate of 90 cents per 100 pounds produces a grain
19 rate of 28 cents per 100 pounds, or an increase of 100
20 per cent over the present statutory rate.

21 Q. And if you adopt this percentage of 31.1
22 per cent at the key point, Winnipeg, and look upon that
23 and test it out, which shows 100 per cent or 28 cents
24 per hundred pounds to maintain the same relationship as
25 existed when Parliament fixed these rates, what would the
26 effect be on Regina?

27 A. If the rates on grain and grain products
28 to Fort William were increased uniformly by 100 per
29 cent, the rate from Regina, which is in the centre of the
30 Prairie grain growing territory would be 40 cents per
31 100 pounds.



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2 Q. And how would the level of the rates to
3 the Pacific coast ports for export be affected under
4 this approach?

5 A. The rates on grain moving to Pacific
6 Coast ports for export are related to the grain rates
7 to Fort William. To maintain the existing relation-
8 ship these rates should also be increased by 100 per
9 cent. For example, the rate from Calgary to the
10 Pacific Coast ports for export which is the same as the
11 rate from Regina to Fort William, that is 20 cents per
12 100 pounds, would also become 40 cents per 100 pounds.

13 Q. Yes?

14 A. It was considered that rates of 28 cents
15 per 100 pounds from Winnipeg and 40 cents per 100
16 pounds from Regina to the lakehead and also 40
17 cents from Calgary to Pacific Coast ports would con-
18 stitute a just and reasonable level.

19 Q. Now, you have been discussing relation-
20 ships to the class rates at other times for the reasons
21 that you have stated, as an approach to fixing just and
22 reasonable rate levels for grain moving to export
23 positions. Now, could you summarize that rather
24 shortly, please?

25 A. From the analysis thus far made it will
26 be seen that the relationship in 1927 between the
27 statutory rates which were then fully implemented and
28 the class rates from Winnipeg has been used as the
29 base for determining the proposed level. The 1927
30 relationship was adopted because the level then fixed
31 by statute arose out of considerations by Parliament



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2 and Special Committees of Parliament which resulted
3 in a stabilized rate level applicable throughout
4 Western Canada for grain traffic moving to export
5 positions over all lines of railway. The relationship
6 that existed in 1927 also takes into account all
7 changes that occurred in the class rates from the time
8 the basic level for the grain rates was first estab-
9 lished in 1899 until 1927. This relationship re-
10 mained constant until 1948.

11 Q. Remained constant until 1948. I don't
12 know that we made it clear why it would change after
13 1948; why would it change after 1948, Mr. Roberts?

14 A. Because, sir, of the general increases
15 which were authorized by the Board of Transport Com-
16 missioners, commencing with the increase of 21% effective
17 April 8th, 1948, and then in that intervening period
18 also we have had equalization before us and the class
19 rates were put by the Board on an equalized level.

20 Q. Why would the relationship change then?

21 A. Because the class rates themselves rose.

22 Q. Maybe we can summarize it this way:
23 one part of the relationship remained fixed and the
24 other part increased; is that right?

25 A. That is right.

26 Q. Which necessarily changed the percentage
27 relationship after that time?

28 A. Correct.

29 Q. And I think Mr. McCoy gave some evidence
30 yesterday, or the day before yesterday -- yesterday, I
think it was -- as to what the relationship would be



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2 today; I think that is correct?

3 A. Yes.

4 Q. You have no comment on that?

5 A. No, sir.

6 Q. That relationship would also apply all
7 over the country, all over Western Canada, the relation-
8 ships he was talking about?

9 A. Yes.

10 Q. I don't want to duplicate that evidence.
11 Now, in the light of your analysis which you
12 have just summarized, and up to the situation on re-
13 lationships to 1948, what did you do?

14 A. Winnipeg was adopted because it was the
15 key point when the export grain rates were first estab-
16 lished and was also the key point at the time of the
17 Crow's Nest Agreement. A uniform increase of 100 per
18 cent over the statutory level of rates is proposed
19 because this method retains the relationships between
20 shipping areas which have existed from the introduc-
21 tion of the export grain rates in Western Canada.

22 Q. Yes, and in the light of that analysis
23 that you have now completely summarized, what was your
24 conclusion?

25 A. Based on judgment and the factors already
26 discussed, the proposed level of rates appeared just and
27 reasonable and also to have a proper place in the
28 freight rate structure. But, to corroborate this
29 judgment, other tests were made.

30 Q. Now, dealing with the tests, what is the
first test?



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2 A. The rates must in the first place be
3 considered in relation to the variable and total cost
4 of moving the traffic. To do this, a study was made
5 of the cost of moving Western grain, and the results
6 have been described in the evidence of Mr. Stenason.

7 Q. Yes?

8 A. The variable cost of transporting grain
9 moving at statutory and related rates as shown by the
10 results of the cost study is 0.74 cents per ton mile and
11 the total cost is 1.00 cents per ton mile.

12 Proposed rates to be just and reasonable must
13 meet the variable cost and something more. The
14 "something more" is dependent upon numerous factors as
15 has already been explained including the fact that
16 this plus factor over variable cost must carry a fair
17 proportion of constant costs.

18 Q. Now, Mr. Roberts, in this analysis and
19 the work that you have done in arriving at -- as an
20 experienced traffic man -- your views and your position
21 as to what would be a just and reasonable level for
22 this grain traffic, how did you look at this proportion
23 of constant costs, this proportion over variable costs,
24 which you mentioned as related specifically to this
25 export grain traffic?

26 A. The movement of grain from Western Canada
27 to export positions is the largest single job the rail-
28 ways do. In 1958, it accounted for over 40 per cent
29 of the total freight transportation service of Canadian
30 Pacific in Western Canada and was over 26 per cent of
all freight transportation service produced throughout



1
2 the entire Canadian Pacific System.

3 In view of the large volume of Western grain
4 moving to export positions in relation to total traffic,
5 it is apparent that unless a substantial burden were
6 to be placed on other traffic or on the railways, the
7 just and reasonable level must meet the total cost of
8 transporting the grain traffic.

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Q. Now, have you further reasons for adopting the proportion over variable costs as the difference between variable and total to the grain traffic as being the appropriate plus over variable cost for the traffic?

A. There is no justification for the basic traffic of a plant being priced on an incremental basis. No one can seriously suggest that grain traffic in Western Canada bears any resemblance to a mere increment, that is that other traffic provides the basic volume and that grain traffic is incremental. Therefore, for this reason also, Western grain traffic should pay rates which meet the total cost.

Q. What was the next test of the reasonableness of your proposed level. You have dealt with the relationship of proportion over variable costs. Now, what was your next test of the reasonableness of the proposed level you have given evidence about.

A. To test the reasonableness of the proposed rate level, the revenue per ton mile which would be produced under such a level was examined. The revenues from western grain moving to export positions as developed in the cost study for the year 1958 totalled \$35,354,766. Included in this figure was the stop-off charges for terminal service at milling points, the revenue from which amounted to \$455,502. Therefore, the revenue from statutory and related rates applicable to the movement of grain and grain products to export positions in the year 1958 was



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2 \$34,899,264. If the rate level were increased 100
3 per cent as proposed by Canadian Pacific, the revenue
4 in 1958 would have been \$70,254,030, which results in
5 average revenue per ton mile of 1.00¢. As has been
6 stated previously, the Regina area is in the centre
7 of the western grain growing territory. From the
8 city of Regina to the lakehead, the revenue per ton
9 mile at the proposed rate of 40¢ per 100 lbs. would
10 be 1.03¢.. The proposed 40 cent rate from the
11 Regina group would result in lower ton mile revenues
12 from branch line points in the group; for example,
13 from Kedleston, which is on a branch north of Regina,
14 the revenue per ton mile would be 0.98 cents and
15 from Drinkwater, which is on a branch line south from
16 Moose Jaw, the revenue per ton mile to the lakehead
17 would be 0.99 cents. The revenues per ton mile
18 referred to above compare with the total cost per ton
19 mile of 1.00¢. Even though this cost per ton mile
20 does not give any weight to the variable passenger
21 train service loss, it is considered that an average
22 revenue of 1.00¢ per ton mile on grain and grain
23 products moving to export positions would meet the
24 cost test where the total cost per ton mile is
25 1.00¢.

26 Q. Any other factors you look at in
27 your testing?

28 A. Although grain constitutes a large
29 proportion of the Western Canadian traffic, a
30 disproportionate share of time and attention is
31 devoted by Canadian Pacific's operating organization



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2 in western Canada to ensure the regular flow of this
3 grain traffic to export positions and for this reason
4 a higher level of rates might be justified. Another
5 feature unique to this movement which is not
6 reflected in the cost study is the delay which takes
7 place at the lakehead and the Pacific coast when the
8 road haul transportation service of the railways has
9 been completed. Because of inability of the
10 terminal elevators at all times to take in the grain
11 on arrival, sometimes 2,000 cars are held on track
12 awaiting delivery, and until this is done,
13 transportation charges are not paid. The fact
14 remains, however, that practically all of the
15 transportation costs have been already incurred.

16 Q. Now, Mr. Roberts, so that there will be
17 no misunderstanding about it, people may realize the
18 situation fully, as to the grain traffic which comes
19 to the lakehead and is delayed there or goes to
20 the Pacific coast ports and is delayed there, is
21 demurrage assessed against this traffic like all
22 other traffic if it delays box cars.

23 A. No, it is not.

24 Q. How much does it pay?

25 A. It does not pay any demurrage charge
26 at all.

27 THE CHAIRMAN: That has been a subject
28 before the Board on a number of occasions.

29 MR. SINCLAIR: Yes. The Supreme Court
30 of Canada found that the railways should have the
31 right to assess demurrage, and the present situation



1
2 is, notwithstanding the finding of the Board of
3 Transport Commissioners and the finding of the
4 Supreme Court of Canada, certain ex-parte submissions
5 were made which resulted in the railways being
6 prevented from instituting what the Boards and
7 Courts found was only right and proper. I think
8 that states the situation.

9 Q. Did you consider the reasonableness
10 of the proposed level in relation to the other
11 rates?

12 A. The proposed rates would raise from
13 0.5 cents to 1 cent per ton mile the revenues
14 received by Canadian Pacific for moving grain and
15 grain products at statutory and related rates. This
16 could not be considered unreasonable when compared with
17 the revenue for the whole system in 1958, excluding
18 the statutory grain traffic of 1.8 cents per ton mile.
19 The proposed rates would also correct the unsatisfactory
20 relationship which now exists between revenues and
21 work done. In 1958, grain and grain products moving
22 to export positions in western Canada, constituted
23 26.2 per cent of the total revenue ton miles of the
24 system but only produced 9.0 per cent of the freight
25 revenues.

26 Q. Summarizing that in another way would
27 be that moving grain to export positions took over a
28 quarter of the total work of the railways but produced
29 less than one tenth of the revenue.

30 A. That is correct, sir.

Q. Yes.



1
2 A. If the proposed rates had been in
3 existence in 1958, the proportion of freight revenues
4 would have been increased to 16.4 per cent.

5 Q. And if your proposed level of 100
6 per cent test was in effect in 1958 in contrast to
7 the one-quarter, over one-quarter of the work
8 producing less than one-tenth of the revenues, the
9 result would be a little over one-quarter of the
10 work would produce a little over 16 per cent of
11 the revenues?

12 A. Correct.

13 Q. What would you say about the
14 relationship of a little over one-quarter of the
15 work producing a little over 16 per cent of the
16 revenues?

17 A. Taking into account volume, the
18 characteristics of the grain traffic, cost of
19 movement and other relevant circumstances, this
20 relationship would not be out of line and confirms
21 the reasonableness of the proposed rates.

22 Q. Now, did you test the proposed level
23 in relation to the domestic level on grain rates
24 within western Canada?

25 A. As previously mentioned, there are
26 two levels of rates for movement of grain in western
27 Canada; one covering domestic traffic, and the
28 other, for grain moving to export positions. Another
29 test, therefore, is to consider the change in the
30 level of the domestic grain rates. It should be
remembered, however, that the domestic grain rates



1
2 in western Canada were not subjected to the general
3 increases authorized by the Board of 21 per cent in
4 1948, 20 per cent in 1950, and 17 per cent in 1951.
5 The reason was stated in the 21 per cent case ---

6 MR. SINCLAIR: Which is reported in
7 1948, 62 C.R.T.C. 1, and the part I wish to draw
8 to the attention of the Commission is at page 102:

9 "Inasmuch as no advance was applied for
10 or is being made with respect to the rates
11 on grain and grain products from points
12 within western Canada to the head of the
13 lakes, and Armstrong, Ontario, or to
14 British Columbia coast points when for
15 export, it is considered that no increase
16 should be authorized in the domestic
17 grain and grain products rates between
18 points in western Canada or with respect
19 to the feed grain rates covered by C.F.A.
20 Tariff 145, C.T.C. 154. To increase
21 these rates with no increase in the
22 others would create a spread in the rates,
23 which, it is considered, would be
24 unreasonable."

25 Now, Mr. Chairman, of course the reason
26 no increase was applied for was because the rate
27 was frozen by statute, the grain rates.

28 (Page 3419 follows)
29
30



1
2 MR. SINCLAIR: Now, in the light of that
3 situation as described in that extract from the Board,
4 would you continue with your test of relating
5 the proposed level for the movement of grain to
6 export positions in western Canada with the domestic
7 grain in western Canada.

8 A. The level of the domestic grain
9 rates in western Canada was again considered by the
10 Board in 1952 and a new level authorized, which, on
11 the average, resulted in an increase of 25 per cent
12 instead of the 69.9 per cent which had been granted in
13 the period from 1948 through 1952 in general freight
14 rate increases.

15 Q. Yes?

16 A. Since 1952, the general increases
17 authorized by the Board have been applied to these
18 domestic grain rates and the cumulative total
19 amounts to 90 per cent.

20 Q. That is 90 per cent. The domestic
21 rates are now 90 per cent over the level that they
22 were in 1948?

23 A. In 1950 too, sir.

24 Q. Yes, but also in 1948?

25 A. Yes, also 1948, yes.

26 Q. But since 1952 they have been
27 increased 90 per cent, also, is what you are saying,
28 because they were stable between 1948 and 1952?

29 A. That is right. There was no change.

30 Q. Would you go on, please?

A. This level, however, is subject to



1
2 by the Board under equalization proceedings and it
3 is anticipated that a further upward adjustment
4 should result.

5 Q. Are the levels of domestic rates
6 in the east and west -- are they equalized?

7 A. No, sir.

8 Q. Which is the higher?

9 A. The eastern scale is the higher.

10 Q. And so that equalization which was,
11 as we know, Mr. Chairman, the position of many
12 people in other times, the Board has not brought
13 that into effect yet with this domestic grain
14 traffic?

15 A. No, sir.

16 Q. And when this rate is equalized,
17 about how much would the western rate increase?

18 A. Well, of course, that is debatable,
19 Mr. Sinclair, because, you see, originally the
20 domestic scale in eastern Canada was lower than
21 the scale in western Canada.

22 Q. Yes?

23 A. The eastern scale had been subjected
24 to the increases since 1948. The relationship
25 changed.

26 Q. Yes?

27 A. Now, the Board, in prescribing the
28 scale in 1952, took an intermediate step towards
29 equalization, you see, and they have not since made
30 any change, since 1952, in that scale in western
Canada.



1
2 Now, I cannot say whether the equalization
3 would result in the rates in western Canada being
4 brought up to the level of the eastern Canadian
5 scale, because the western rates at least were
6 higher historically than the east.

7 Q. You think they might be higher if
8 the old relationship was maintained?

9 A. Well, higher than the eastern scale,
10 sir.

11 Q. Yes?

12 A. Well, yes, that could possibly result.

13 Q. Now, leaving aside what may happen
14 to bring about equalization in domestic scales east
15 and west, what is the general relationship between
16 the proposed level that you have spoken about --
17 that is, the level to put grain rates in western
18 Canada moving to export positions at a just and
19 reasonable level, and domestic rates in western
20 Canada for the movement of grain?

21 A. The increase of 100 per cent which
22 is proposed for the level of rates for the movement
23 of western grain to export positions therefore,
24 would change the level of these rates by approximately
25 the same percentage as in the domestic grain rate
26 level, particularly having regard to the unfinished
27 aspect of equalization in the domestic rate level.
28 The proposed level for the movement of grain to
29 export positions in western Canada, therefore,
30 meets the test of comparison with the change in
the western domestic level.



1
2 Q. Mr. Roberts, what about a comparison
3 of the proposed level for a just and reasonable
4 level for grain moving to export positions with
5 traffic having characteristics similar to grain?

6 A. Another test of a proposed rate level
7 is with other traffic having similar characteristics
8 such as length of haul, loading weight, type of
9 equipment and claims experience. There is, however,
10 no commodity that in major characteristics is
11 sufficiently similar to grain to enable this test to
12 be made with other Canadian movements.

13 Q. So, in view of this, what did you
14 do?

15 A. When a comparison between rate
16 levels on similar commodities moving in Canada is
17 not possible, as an alternative, rates for the
18 movement of grain and grain products in contiguous areas
19 have been examined as a guide. The following table
20 also found on page 18 of the Canadian Pacific
21 submission ---

22 Q. That is Exhibit 47?

23 A. Exhibit 47, yes. The table gives
24 a comparison between the present rates for the
25 movement of grain from shipping points in the United
26 States to export positions at Duluth and Seattle,
27 and the proposed rates for the movement of western
28 Canadian grain for comparable distances to Fort
29 William and Vancouver.

30 MR. SINCLAIR: With your permission, Mr.
Chairman, I think I would like to have that taken



right into the record.

EASTBOUND

	<u>Miles</u>	<u>Rates</u>	<u>Percent U.S. rate above proposed rate</u>
York, N.D. to Duluth	420	46¢	64.3
Winnipeg, Man to Fort William (proposed)	420	28¢	
Whately, Mont. to Duluth	772	72½¢	81.3
Regina, Sask. to Fort William (proposed)	776	40¢	
Billings, Mont. to Duluth	883	86½¢	96.6
Saskatoon, Sask. to Ft. William (proposed)	900	44¢	
Eureka, Mont. to Duluth	1240	104½¢	100.9
Calgary, Alta. to Fort William (proposed)	1242	52¢	

WESTBOUND

Kalispell, Mont. to Seattle	627	72½¢	81.3
Calgary, Alta. to Vancouver (proposed)	642	40¢	
Shelby, Mont. to Seattle	756	81¢	102.5
Edmonton, Alta to Vancouver (proposed)	765	40¢	
Helena, Mont. to Seattle	771	81¢	76.1
Medicine Hat, Alta. to Vancouver (proposed)	818	46¢	
Glasgow, Mont. to Seattle	1014	92½¢	85.0
Moose Jaw, Sask. to Vancouver (proposed)	1067	50¢	

---Luncheon adjournment.



1
2 --- On resuming at 2.00 p.m.

3
4 THE CHAIRMAN: All right, Mr. Sinclair.

5 MR. SINCLAIR: Q. Mr. Roberts, just before
6 the noon adjournment you had been discussing the com-
7 parison of rates for equidistant mileages in the United
8 States with the Crow grain rates as you would propose
9 their level to be, to be just and reasonable.

10 Now, in the United States the rates on grain
11 to Duluth, is there a distinction between a terminal rate
12 and a domestic mileage rate that would apply?

13 A. No, sir, there is just the one rate applies
14 to both movements, either for furtherance or for local
15 delivery in Duluth.

16 Q. And this arose with some questions that
17 were put, I think, possibly by the Commission or by my
18 learned friend Mr. Dickson.

19 What would the comparison be, to complete the
20 picture, with the domestic rate on grain from Western
21 Canada, for instance, the proposed rate for -- we will
22 take any point you wish to take -- Billings to Duluth,
23 that was around 900 miles, and Saskatoon, and what would
24 the United States rate be for either furtherance or for
25 domestic that is shown in the table? It is at $86\frac{1}{2}$,
26 is that right?

27 A. Yes.

28 Q. And your proposed would be 96.6--- I am
29 sorry, .44.

30 MR. FRAWLEY: ,44 is bad enough.

MR. SINCLAIR: I was hoping that for once the



1
2 Canadian rate would be a little bit higher than the
3 United States rate. The reaction of my friends is one
4 of outrage.

5 Q. Now, what would the domestic rate for
6 about that mileage be in Canada?

7 A. The domestic rate for about that mileage
8 in Canada would be, oh, offhand I don't know the figure,
9 but it would be about the same as the 86½-cent rate
10 that is shown there.

11 Q. About that?

12 A. Yes.

13 Q. Well, now, what would it be about lower
14 than that?

15 A. Well, the domestic mileage scale in
16 Western Canada for distances under 900 miles would be
17 slightly higher than the Duluth rate.

18 Q. And over?

19 A. Then the position is reversed; the Duluth
20 rate -- say the distance is 1000 miles and over, I
21 believe those rates are a little higher than our domestic
22 mileage scale.

23 Q. Now, with the table before you would
24 you please comment on the figures shown and your appre-
25 ciation of them as it applies to the question of what
26 would be a just and reasonable level for rates for
27 moving grain to the lakehead and to Pacific Coast ports
28 for export?

29 A. This comparison shows that the present
30 United States rates are from 64.3 per cent to 102.5
per cent above the proposed Canadian level. The United



1
2 States rates reflect factors in that country and cannot
3 be applied as an absolute guide, but they do indicate
4 a general position which shows that the proposed Canadian
5 level is not unreasonably high in relation to rates
6 applying for the movement of the United States crop to
7 export positions in that country.

8 MR. FRAWLEY: What does he mean by "reflect
9 factors"? Could that be explained? I suppose I can
10 ask that on cross-examination.

11 MR. SINCLAIR: Q. How does the increase,
12 Mr. Roberts, in the Canadian level that you proposed
13 compare with the increase in that level since 1927;
14 the increase which you proposed to bring the Canadian
15 rates to a just and reasonable level, I think, was
16 100 per cent?

17 A. Yes.

18 Q. How does that compare with the increase
19 in the United States in their grain rates since 1927?

20 A. Another test would be to compare the
21 proposed increase of 100 per cent with the change that
22 has taken place from 1927 to the present in the rates
23 for movement of grain into export positions in the
24 United States. It will be recognized that this test
25 has, in the particular circumstances, considerable
26 importance because when the grain rates to export posi-
27 tions in Western Canada were increased in 1918, the
28 change in the Canadian rates was related to the change in
29 the United States rates. This fact is referred to in
30 the evidence of Mr. Edsforth, Volume 11, page 1447.

Q. Could you equally state what that is



1
2 without looking it up, or maybe the Commission -- as I
3 recollect it, the United States increase was applied
4 to the Canadian rates with the United States increase
5 to be the maximum; is that a way of summarizing it?

6 A. Yes, that is right. It is what is known
7 as the McAdoo Award.

8 Q. And you brought that to the attention of
9 the Commission for what purpose, specifically, Mr.
10 Roberts?

11 A. Well, that was -- that is brought to the
12 attention of the Commission, Mr. Sinclair, to show that
13 there have been instances where changes in rates in the
14 United States have been reflected in changes in Canada.

15 Q. In respect to these particular ---

16 A. In respect to these particular rates, that
17 is right.

18 Q. These particular rates being the grain
19 rates which we are now discussing?

20 A. That is right.

21 Q. Now, Exhibit 85, Mr. Roberts, would you
22 continue to have that before you? Exhibit 85 shows
23 the rates on grain from points in the Western United
24 States; Duluth to Seattle versus rates from equidistant
25 shipping points in western Canada, Fort William to
26 Vancouver, as at September 12, 1927 and as at present?

27 A. Exhibit 85 shows the rates on grain on
28 September 12, 1927, and the present rates, from repre-
29 sentative shipping points in the Western United States
30 to Duluth and Seattle together with the percentage
increases in these rates which have taken place in



1
2 that period. The statement also shows the rates
3 from comparable Canadian points to the lakehead and
4 Vancouver, B.C. in 1927, at present and as proposed.

5 It will be observed that during the period
6 1927 to the present, rates in the United States were
7 increased from 104 per cent to 119 per cent.

8 Q. That is the range of the increase?

9 A. That is right, yes.

10 Q. Yes?

11 A. The proposed change in the level of
12 Canadian grain rates to export positions of 100 per cent
13 is about the same as the lower percentage increase in
14 the United States. Accordingly, the proposed rate level
15 for the grain and grain products moving into export
16 positions in Western Canada meets the test of compari-
17 son with the change in rates for similar movements in
18 the United States.

19 Q. Mr. Roberts ---

20 A. Mr. Sinclair, may -- I don't like to
21 interrupt you, but I didn't mention the fact that on this
22 exhibit ---

23 Q. You say "this exhibit"?

24 A. Exhibit 85.

25 Q. Yes?

26 A. There is one change which I would like to
27 make there, and that is Saskatoon, line 5; you show the
28 rate in effect on September 12, 1927, and at present,
29 was 24 cents. Now, the correct figure is 22 and the
30 proposed rate, of course, based on 100 per cent increase,
would be 44.

(Page 3434 follows)



1
2 Q. I, notice that Medicine Hat is 24
3 and 48. When this was being typed, is that just
4 duplication of a line?

5 A. That is correct.

6 Q. So the Medicine Hat one is correct?

7 A. Yes.

8 MR. FRAWLEY: That doesn't move to Fort
9 William, but it perhaps isn't important. You have
10 it down below moving to Vancouver. That is a little
11 more realistic.

12 MR. SINCLAIR Q: Mr. Roberts, in view
13 of the comment of my friend, the way you have proposed
14 the increases to bring the rates to a reasonable level -
15 does it in any way affect the relationships that are
16 now established for the movement of the grain traffic
17 either east or west?

18 A. No, sir.

19 Q. In any particular?

20 A. No, sir.

21 Q. Before we leave the United States
22 comparison and test, would it be correct to summarize
23 your position this way, that you were looking at the
24 United States rates as to percentage changes in the
25 level rather than the level in and of themselves?

26 A. That is correct, Mr. Sinclair.

27 Q. Mr. Roberts, your proposed level
28 would be approximately - how would it compare with
29 the United States level? What percentage would
30 the proposed rate be to have western Canadian grain
on a just and reasonable level and the level in the



1
2 United States?

3 A. Well, in comparison, for example,
4 from Winnipeg to Fort William the rate from York
5 to Duluth would still be 64.3 per cent above our
6 proposed rate.

7 Q. That is, the United States level would
8 be 64.3 per cent above the level you are proposing
9 to be just and reasonable in Canada?

10 A. Correct.

11 Q. And up to the United States being
12 100 per cent higher when the traffic is moved above
13 twelve hundred miles?

14 A. Yes.

15 Q. Mr. Roberts, what is your conclusion
16 concerning the position of the statutory rates on
17 grain and the remuneration received by the railways
18 thereunder and the proposed level as you have put
19 it before this Commission?

20 A. The statutory level of grain rates
21 is an inequity in the freight rate structure. It also
22 imposes obligations and limitations by Statute
23 resulting in a burden being placed on other shippers
24 and the railways. This is evident from the fact that
25 notwithstanding the substantial increase in the cost
26 of transportation since the level of the rates was
27 established in 1927, none of this increase in cost
28 has been shared by traffic moved under these rates.
29 The inequity can only be removed and the burden placed
30 where it properly belongs by Canadian Pacific receiving
payment for the movement of this traffic at a just and



1
2 reasonable level of rates. The principles which
3 should be followed and the tests which should be
4 applied in determining the level of such rates have
5 been reviewed and the conclusion reached is that a
6 uniform increase of 100 per cent in the rates on
7 grain moving to export positions in western Canada
8 would bring these rates to a just and reasonable level
9 and place them in an equitable position in the
10 Canadian freight rate structure.

11 MR. SINCLAIR: Please answer my friends.

12 THE CHAIRMAN: Mr. Cumming?

13 CROSS-EXAMINATION BY MR. CUMMING:

14 Q. Mr. Roberts, I am looking at page
15 2 of your precis. Do you have that before you?

16 A. Yes, sir.

17 Q. You say about a third of the way down
18 the page with respect to the authority of the Board
19 that it extends to all freight rates in Canada with
20 the exception of statutory rates on grain and grain
21 products. I understand, sir, that there is some
22 limitation of the Board's jurisdiction in respect
23 of agreed charges.

24 A. Well, in this way, Mr. Cumming, that
25 any complaint against an agreed charge must be filed
26 with the Governor in Council, and may not be done
27 until the agreed charge has been in effect for a
28 period of three months.

29 Q. And that limits the Board's authority
30 to that extent?

A. Yes.





1
2 Q. Do you think, as a traffic man, that
3 there would be any improvement in your position
4 if that legislation and the requirements there were
5 changed in any way?

6 A. I don't know that there would be
7 any improvement, Mr. Cumming. We would still operate
8 in negotiating agreed charges in the manner which
9 would result in traffic moving, giving the railways
10 a reasonable return in all fairness to the shippers
11 and ourselves.

12 Q. Have you found that that has hampered
13 you in any way, the requirement that exists there?

14 A. No.

15 Q. Going on a little bit, on your next
16 page you refer in your discussion of the principles
17 of rate making to this concept of value of service,
18 in the second paragraph on page 3. Can you tell us,
19 Mr. Roberts, whether the value of service principle
20 plays the same roll today as it did in years gone by
21 when railways were in more what would be described
22 as a monopoly position transportation-wise?

23 A. Is that a question?

24 Q. Yes. Is it as important today?

25 A. Very definitely, Mr. Cumming. The
26 value of service is another way of describing
27 competitors' pricing, which is what we do today.

28 Q. Insofar as it is related to the
29 value of goods, has your ability to fix rates on the
30 basis of value of service been affected by the
inroads of competition?



1
2 A. Well, of course, the competition,
3 competing modes of transportation are a factor in
4 establishing rates where that is the case.

5 Q. Then, I just want to understand the posi-
6 tion, and do you say that value of service is as
7 important a factor in rate making today as it previously
8 was?

9 A. I would say yes, sir.

10 Q. Then going towards the bottom of
11 the page, you make the statement that it is not the
12 function of railway freight rates to offset geographical
13 or other disadvantages of industries or areas. Do
14 you find, as a traffic man, that that is a principle
15 which is readily acceptable by shippers generally,
16 or are you faced in your rate making problems with
17 difficulties in that regard?

18 A. I would say that the shippers generally
19 realize their position in respect of transportation,
20 Mr. Cumming, yes.

21 Q. On page 4 you go on with a discussion
22 of the Canadian Freight Classification. Can you
23 tell us how much percentage-wise of the traffic moving
24 on Canadian Pacific moves on class rates?

25 A. I don't have the figure for Canadian
26 Pacific, but I would say from the Board's waybill
27 study that the percentage is 8 per cent as far as
28 revenue is concerned, and slightly over 2 per cent
29 so far as weight is concerned.

30 (Page 3444 follows)



1
2 Q. Now, that, is the study for all Canadian
3 railways?

4 A. All Canadian railways, and under Canadian
5 tariffs, of course.

6 Q. I suppose Canadian Pacific's proportion
7 would be about the same; would it?

8 A. I would say it would be in that neighbour-
9 hood. Of course, there is a certain amount of traffic,
10 Mr. Cumming, moving at class rates, which moves in pool
11 cars, and I do not think that would show up.

12 Q. That is not reflected in the Waybill
13 Analysis?

14 A. I don't think so.

15 Q. On the next page, in your account of the
16 factors which are weighed in allocation and rating
17 toward a particular commodity, you refer under the
18 third heading to the type of equipment necessary. So
19 far as grain traffic is concerned, is there any special
20 equipment that is needed, or do ordinary boxcars suffice
21 there?

22 A. I would not say ordinary boxcars, Mr.
23 Cumming. They have to be good cars for grain -- box-
24 cars, but they have to be in A-1 condition.

25 Q. I see. Flax, I understand, requires
26 some special treatment; does it?

27 A. Yes. In shipping flax, you have to have
28 the car lined because it is an oily seed and it slips.
29 It leaks out easily unless you have car liners in.

30 Q. Are those liners that you refer to --
are they charged for?



1
2 A. Yes, they are.

3 Q. Now, Mr. Roberts, there has been a cer-
4 tain amount of evidence before this Commission which
5 would indicate that the proportion of traffic moving on
6 competitive rates and agreed charges is increasing and
7 currently with that the amount and proportion moving
8 on class and commodity rates is shrinking. Do you, as
9 a traffic man, expect that trend to continue in the
foreseeable future?

10 A. Well, the competition will become in-
11 tensified, Mr. Cumming. When it might settle down and
12 each segment of transportation find its own place in
13 the economy, I wouldn't say. But, at the moment, yes,
14 the traffic moving at non-competitive and class rates
is shrinking.

15 Q. That seems, as far as you can see, to
16 be a one-way street?

17 A. How do you mean that, sir?

18 Q. You do not see any change in that trend?

19 A. Not in the foreseeable future.

20 Q. I see. On the next page, page 7, sir,
21 you say:

22 "The first three column ratings generally
23 apply to less than carload shipments of all the
24 commodities named in the Classification."

25 Are there any less than carload shipments moving on
26 column 55 -- that is the fourth column?

27 A. Yes. Grain in less than carload quantities
28 would be one, Mr. Cumming.

29 Q. Is there any significant movement of less than
30



1
2 carload on that rating?

3 A. I would say there would be pretty fair movement
4 of grain in less than carload quantities, particularly
5 feed grain, Mr. Cumming.

6 Q. I see. And that, you say, would be a sig-
7 nificant movement?

8 A. Well, I would say in Western Canada and in
9 Eastern Canada, too, yes.

10 Q. Then, you told us yesterday about some carload
11 movements on the four higher ratings. Once again, is
12 that what could be described as a significant movement?

13 A. Well, we get good revenue from it, Mr. Cumming.

14 Q. And the Waybill Analysis would indicate that
15 there would be something in the order of 8800 cars in
16 1958?

17 A. Eighty-eight cars, which translated
18 under ---

19 Q. I was expanding it.

20 A. Yes, that is right.

21 Q. On page 8 under the heading of "Class Rates,"
22 Mr. Roberts, you say the basic rates are the class rates
23 which are prescribed by the Board as just and reasonable
24 rates and are the ceiling which may not be exceeded
25 without approval of the Board. I wonder if you would
26 explain to us, sir, to what extent, if any, the Board
27 can or does approve rates in excess of the class rates
28 and just how the railway goes about getting a particular
29 rate raised if they think it is unsatisfactory?

30 A. Well, we do not -- we cannot go above the class
rates on a particular rate, Mr. Cumming, but the class



1
2 rates move. They are the basic for a general freight
3 rate increase, and that is how the class rates move.

4 Q. Just in general revenue cases?

5 A. Yes, sir.

6 Q. Supposing you consider that the class rate on
7 some particular commodity rather than the general class
8 rate has been inadequate. What can you do about that?
9 Or, can you do anything?

10 A. I cannot -- that is a pretty theoretical ques-
11 tion, Mr. Cumming. You see, these class rates -- the
12 level is prescribed by the Board. The classification
13 which is used in conjunction with them has been worked
14 out over the years. It reflects the proper rate-making
15 principles.

16 Now, I cannot foresee a rate on any particular
17 class being done -- being granted -- but it could be done.
18 Should it happen by, say, a commodity being rated second
19 class less than carload, it could be put in the first
20 class. You see -- raise it up one class.

21 Q. Shifting the class rate for the commodity
22 itself?

23 A. That is correct.

24 Q. Now, is that done much in practice?

25 A. No, sir, not to my knowledge. I do not
26 know of any class ratings on any particular article being
27 increased.

28 Q. What I am getting at, perhaps, is this,
29 Mr. Roberts. Do you think, once again as a traffic man,
30 that the railways' position would be better or it would
be more practical for them to change individual rates



1
2 upwards?

3 A. Oh, that is a pretty big question, Mr.
4 Cumming.

5 Q. Well, all right, then.

6 A. I'd have to chew on that for a while.

7 Q. You would want to chew on that?

8 A. Yes, sir.

9 Q. You refer further down the page to the
10 equalization orders and you note over the page the ex-
11 ception indicates the Maritimes, and you told us this
12 morning something of the domestic grain which had not
13 been equalized. Apart from that, have those orders
14 succeeded in generally equalizing rates east and west
15 as of today?

16 A. Oh, the class rates are equalized, sir.
17 The only exception in the case of a mile for mile rate
18 equalization -- we must except the Maritimes, of course
19 -- are the groups A and B in Eastern Canada.

20 Q. What do they comprise?

21 A. Well, that is the territory in the Provinces
22 of Ontario and Quebec which historically have been treat-
23 ed as one rate group between Eastern Canada and Western
24 Canada -- one area.

25 COMMISSIONER MANN: Mr. Roberts, for the sake
26 of completeness, is it correct that between the mainland
27 of British Columbia and Vancouver Island there is a
28 two for one relationship?

29 THE WITNESS: Yes, because of the water move-
30 ment.

31 COMMISSIONER MANN: There is a departure from



1 strict mileage in that case as well?

2 THE WITNESS: That is correct.

3 MR. CUMMING: Q. And those, I take it, are
4 the only exceptions to these equal ratings?

5 A. That is the class rate equalization, yes.

6 Q. I understand, Mr. Roberts, that railroads
7 in certain areas, anyway, operate their own road highway
8 transport organizations?

9 A. No, we do not operate our own. The
10 railway?

11 Q. That was my understanding. Am I incor-
12 rect in that?

13 A. We have what is known as the Canadian
14 Pacific Transport Organization. It is separate from
15 the railways and acts as a highway operator.

16 Q. And is it, in its day-to-day operation,
17 controlled by the railway, or operated independently?

18 A. No, sir, it has its own manager who
19 operates the company as a manager would in accordance
20 with regular business principles.

21 Q. Yes, I see.

22 Just dealing generally with this question of
23 competition, sir, as I understand the evidence that has
24 been given, perhaps the principal competitive mode of
25 transportation that we have gone into is that of highway
26 trucking?

27 A. What? In Canada?

28 Q. Yes.

29 A. Yes, sir.

30 Q. Would it be fair to ask you what is the



1
2 range distance-wise of the main burden of that truck
3 competition?

4 A. Well the main burden, I would say, would
5 be distances between 300 and 400 miles.

6 Q. We have heard of some very long distances.

7 A. There are, between Eastern Canada and
8 Western Canada, but you asked me for, I presume, the
9 distances where the competition was most intense.

10 Q. And you say in that order of between
11 300 and 400 miles?

12 A. Yes, sir.

13 Q. Do you expect that to extend? Is that
14 an experience that you have been having?

15 A. Well, with the extension of the network
16 of highways, you cannot stop progress. I think they
17 will extend their operations.

18 Q. We have heard these terms "attrition" and
19 "erosion", Mr. Roberts. I wonder if you would be good
20 enough to define them for us?

21 MR. SINCLAIR: I might say in this room you
22 have asked the wrong witness. The man who coined them
23 is now the pin boy.

24 MR. CUMMING: Q. I realize you cannot be
25 blamed for them. I just want your definition of them.

26 A. Attrition, Mr. Cumming, is a lowering --
27 a process of a lowering of your rates, I would say; and
28 erosion is what could be the loss of traffic.

29 Q. I see. And it is in those senses that
30 those two terms are used?

A. Yes, sir.



1
2 Q. I would like you to turn for a moment,
3 Mr. Roberts, to your Exhibit 47, on page 11, paragraph 30.
4 Have you got that?

5 A. Yes.

6 Q. It says:

7 "From earliest times, however, to enable
8 grain to move freely, the applicable rates have
9 always been on a lower level than 8th class."

10 Now, what I am interested in is that statement in
11 relation to your discussion about relationships with
12 class rates. Can you tell me whether the applicable
13 rates which were in force from earliest times were fixed
14 on the basis of any pre-determined or pre-conceived
15 percentage relationship, or is it just an experimental
16 process?

17 A. Originally, no, Mr. Cumming. This is my
18 opinion, of course. We do not have anything in the
19 record to indicate this, but I would say it was just
20 fixed at a level to move the traffic at the time.

21 Q. Just as a matter of business principles?

22 A. Business principles, yes.

23 Q. And so it would not have been fixed with
24 any thought of setting on any determined percentage
25 relationship?

26 A. No, sir.

27 Q. Relationships are after calculating, that
28 is ---

29 A. Are we speaking now of the rates to Fort
30 William -- the rates on grain to Fort William, Mr.
Cumming, or ---- ?



1
2 Q. I was thinking of the rates which are
3 referred to in paragraph 30. I am not quite sure what
4 they are.

5 A. You see, there are two levels of grain
6 rates in Western Canada. There is the statutory level
7 on traffic moving into export positions, either on the
8 Pacific Coast or Fort William, and then there is the
9 domestic mileage scale which applies on movements
within Western Canada.

10 Q. And, of course, those were both lower
11 than the class rate?

12 A. That is correct, yes.

13 Q. You said that the applicable rates were
14 fixed on business principles. Were you referring to
15 one or the other, or both?

16 A. Both.

17 Q. I see.

18 Going over to page 13, there is the table that
is set out in paragraph 38.

19 You told us this morning, sir, if I recall
20 your evidence correctly, that Maple Creek -- I think my
21 friend Mr. Sinclair described Maple Creek as the break
22 point on Canadian Pacific line?

23 A. That is right.

24 Q. I am just trying to appreciate the signi-
25 ficance, then, of the inclusion of this table of the
eastbound rates from points west of that break point?

26 A. Well, I guess we have to give a little
27 compliment to Mr. Frawley's province, because particularly
28 the milling companies in Saskatchewan and Manitoba draw
29
30



1
2 grain from Alberta which is, of course ---

3 Q. --- milled in transit and then forwarded
4 to the lakehead?

5 A. Exactly. Oh, yes.

6 Q. Does that represent a substantial movement,
7 sir?

8 A. Well, Mr. Cumming, I could not put a
9 figure on that, but they very definitely do draw grain
10 from Alberta, the Peace River district.

11 Q. So then these more westerly rates are not
12 merely paper rates at all?

13 A. No, sir.

14 Q. You say they are very real?

15 A. Absolutely.

16 Q. In paragraph 40 you point out -- we have
17 heard this before -- that under the statutory grain
18 rates the progression for mileage blocks is not regular?

19 A. That is correct.

20 Q. Canadian National filed, as Exhibit 82, a
21 mileage block scale. Can we get a similar one from
22 you, or would yours be identical?

23 A. Well, I think that ---

24 Q. Perhaps, in fairness, I will put this
25 before you.

26 A. I think probably we could portray it, if
27 you don't mind, a little more graphically as to the
28 mileage block.

29 Q. Is that a convenient thing for you to
30 file?

MR. SINCLAIR: What the witness said is that



1
2 he would give you the information but he would do it
3 somewhat differently. He had obviously in mind a way
4 of presenting it that would set this up a little dif-
5 ferently than this was set up that would, in effect,
6 give you the mileage block progression.

7 MR. CUMMING: That is something you can file
8 later?

9 MR. SINCLAIR: Oh, yes, we will do it -- that
10 is, if you want it on that basis, we can do it on that
11 basis, or do you want it the way the witness says?

12 MR. CUMMING: If Mr. Roberts says it will be
13 shown more graphically, we would be quite pleased to
14 have it the way Mr. Roberts would set it up.

15 MR. SINCLAIR: That is the way we will do it,
16 Mr. Chairman.

17 MR. CUMMING: Q. Now, over the page, sir,
18 you comment on this question of allocating a key point
19 in picking a rate where there would be a reasonable
20 relationship, and so on. And you say if Winnipeg --
21 it says in this submission:

22 "If Winnipeg were adopted as the key
23 point a substantially lower increase would
24 result. Notwithstanding that a strong
25 case could be made out for using Regina
26 as the key point there is some justifica-
27 tion for using the 1897 key point, Winnipeg."

28 I wonder, sir, if you could give us the pros
29 and cons for the selection of Regina on the one hand
30 and Winnipeg on the other as the key points?

31 A. Well, I think I explained that in my
32 precis, Mr. Cumming.



1
2 Q. You develop Winnipeg to some extent.

3 A. And Regina, too, as I recall.

4 I said:

5 "If Regina were taken as the key point and
6 the precise relationship of 31.7 per cent to the
7 1927 8th class rate from Regina were applied
8 against the existing column 30 of \$1.43 per
9 100 pounds, it would result in an increase
10 of 125 per cent over the statutory grain
11 rates, making the rate 45 cents per 100 pounds
12 instead of 20 cents per 100 pounds as at
13 present. The effect of this basis on other
14 shipping points was then examined. In the
15 territory east of Regina, an increase of
16 125 per cent would result in higher rates
17 than if the precise percentage relationship
18 to 8th class at these shipping points were
19 used, particularly from points in Manitoba."

20 Now, that is 125 per cent, Mr. Cumming, and you see the
21 increase that we are proposing, the percentage relation-
22 ship to the class rate would be 100 per cent. In so
23 far as Portage la Prairie is concerned it would be 106.7
24 per cent; Virden, 111.1; and Grenfell, 121.1. It
25 was those points we would have been applying a greater
26 increase than the percentage relationship indicated.

27
28
29
30 (Page 3460 follows)



1
2 Q. I see. Towards the end of this part
3 of your submission, Mr. Roberts, and I think it is
4 in paragraph number 60 ---

5 MR. SINCLAIR: It is Exhibit 47.

6 MR. CUMMING: Yes.

7 MR. SINCLAIR: And that is at page 19.

8 MR. CUMMING: Yes, page 19.

9 Q. You say, "the additional revenues which
10 would have accrued to Canadian Pacific in 1958 if
11 the proposed level of Western Grain Rates had been
12 in effect instead of the prescribed level." The
13 increase would have been - I have the figure
\$35,600,000.

14 A. \$35,354,766; I believe that is the
15 proper figure.

16 Q. That, of course, Mr. Roberts, assumes
17 that there would be no falling off in the traffic
18 offerings?

19 A. I don't think there would be.

20 Q. If these rates, the proposed increase
21 in the rates which you have in mind and are suggesting
22 before this Commission, were to be paid, not in the
23 manner that you suggest, but to be paid by the shippers
24 of grain themselves, would you anticipate any falling
off in traffic offered?

25 A. I don't think that it would lessen
26 the demand for the Canadian grain in the export
27 market; whether the western Canadian economy could
28 stand it, is another question, and that is why we
made the suggestion we did.



1
2 Q. I see. Now, going back to your
3 precis, if I may, Mr. Roberts, on page 14 you refer
4 to what was described as "Statement 300", and the
5 exhibit is now number 83.

6 Are the figures which are set out in that
7 exhibit, No. 83 sir, made on the basis of the rates
8 before or after the 17 per cent increase, or do they
9 account for the 10 per cent roll-back?

10 A. No, they include the full 17 per cent;
11 that is the revenue which would be received by the
12 railways.

13 Q. I see. Now, on page 15 you refer
14 once again to the irregularity of the mileage blocks
15 under the statutory grain rates. Now, despite that
16 irregularity, there is the principle of taper
17 recognized in that.

18 A. Yes, they taper all right, but
19 certainly not with any consistency. For example,
20 you have a range in the mileage blocks, Mr. Cumming,
21 between Winnipeg and Morley, Alberta, which is the
22 furthest west, and you have a range in mileage blocks
23 of 8.6 miles up to 122.6. Now, that certainly isn't
24 consistent.

25 Q. Well, over the page you, after having
26 spoken about the consideration that you gave to a
27 change in that mileage block to what is described
28 as a smooth progression, you comment that such a
29 change would have disturbed in some degree long
30 established groupings.

Now, what I would like to know Mr. Roberts,



1
2 is it of paramount importance that those long
3 established groupings be maintained?

4 A. I would say so far as the western
5 Canadian farmer is concerned, yes.

6 Q. Now, supposing you were to change
7 them in favour of a smooth progression, what happens
8 when those long established groupings are disturbed?

9 A. Well, it could disturb, Mr. Cumming,
10 the pattern of shipping very definitely. In other
11 words, eastbound or westbound; it would change the
12 direction of movements.

13 Q. It would change the direction of
14 movements. Would it affect the overall volume
15 of grain offered for shipment?

16 A. Oh, I don't think so, no sir.

17 Q. Now, would the change in the pattern
18 of movements, would that represent a severe economic
19 dislocation in the west?

20 A. I don't think so.

21 Q. Would it make much difference to the
22 railway?

23 A. Not if we get just and reasonable
24 earnings based upon a just and reasonable level of
25 rates.

26 Q. I am asking that apart from that.

27 A. No sir.

28 Q. Again on page 19 at the bottom of
29 the page - and this point, I think, has come up
30 before, Mr. Roberts - you say, "There is no justification
for the basic traffic of a plant being priced on an



1
2 incremental basis." Now, I wonder if you, as a
3 traffic man, would tell us what the term "basic
4 traffic" means and how big a segment of traffic it
5 has to be before it can be properly described as
6 "basic traffic"?

7 A. Well, basic traffic, Mr. Cumming,
8 is the traffic for which the plant was constructed
9 in the first place, and I don't think there is any
10 doubt but what all the feeder lines in the provinces
11 of Manitoba, Saskatchewan and Alberta were constructed
12 for the carriage of grain. And now, they constitute
13 40 per cent, the traffic that is handled from those
14 lines constitutes 40 per cent of the work we perform;
15 that is, 40 per cent of the work we perform in
16 western Canada, and when you have a segment of traffic
17 that large, it must be basic.

18 Q. Well now, when you as a traffic man -
19 or is this a practical thing to do, to say that any
20 segment of traffic must achieve a certain percentage
21 before it can be described as basic? Is there
22 any rule of thumb that is of assistance in that?

23 A. No. You would have to look at why
24 the lines were built.

25 Q. I suppose it is question of judgment,
26 is it?

27 A. That is right.

28 Q. Now, on page 20 at the bottom of the
29 page, you say, "Although grain constitutes a large
30 proportion of the Western Canadian traffic, a
disproportionate share of time and attention is devoted



1
2 by Canadian Pacific's Operating organization in
3 Western Canada to ensure the regular flow of this
4 grain traffic to export positions..." and I was
5 wondering, sir, when you talk about share of time
6 and attention devoted by the operating organization
7 as being disproportionate, how is that measured?

8 A. That is measured in terms of the
9 revenue received at the present time from this
10 traffic; the amount of the traffic requires very
11 careful attention on the part of our operating
12 people who are watching it constantly.

13 Q. If the proportion of the time of your
14 operating organization which is devoted to this
15 were compared to the actual transportation work done
16 and measured in ton miles, or something of
17 that sort, rather than compared to revenues, would
18 it still be disproportionate?

19 A. No, but, of course, the revenue is
20 the thing you look at in performing the work.

21 Q. That is the key, is it? But, in
22 any event, the statement that it is disproportionate
23 is related to revenue and not to work done.

24 There are just one or two other points.
25 There was something you said yesterday, Mr. Roberts,
26 in answer to some questions by my friend Mr. Sinclair.
27 It is in the transcript Volume 23, at page 3363 and
28 at line 21. I was going to ask you this question,
29 and I am dealing with competitive rates.
30 Do you have that?

31 A. Yes.



1
2 Q.

3 "Q. And dealing with competitive rates,
4 is it necessary for you to file all the
5 information that you get, or what is the
6 situation?

7 A. No, it isn't necessary to file the
8 information we secure, but we have it in
9 our records.

10 Q. And you file it when?

11 A. If required by the Board?

12 Could you tell us, sir, how many times
13 since 1951 you have been required to file this
14 information with the Board?

15 A. No, I don't know sir.

16 Q. I am instructed that it was something
17 of the order of eighteen times; would that accord
18 with your ---

19 A. No, I couldn't answer that question;
20 I would say the only time we file it is when we
21 publish a rate without any notice; just publish the
22 rate to meet the competitive situation.

23 Q. In any event, Mr. Roberts, the
24 tenor of your evidence on that point was that you
25 didn't feel there is any restriction imposed on the
26 railways under that section?

27 A. No, sir.

28 Q. Do you think the section is useful
29 at all or is it necessary?

30 A. Well, we gather the information ---

Q. Anyway?



1
2 A. Anyway, Mr. Cumming, we do it because
3 it is good business practice; you should know what
4 the price is you have to meet and what is involved.

5 Q. Well, with that in mind and in view
6 of the fact you got it anyway, has the section
7 outlived its usefulness?

8 A. Well, I wouldn't want to say that,
9 Mr. Cumming, I wouldn't want to say that.

10 Q. Well, there are just two more. There
11 is one more point here, there was some discussion
12 yesterday with Mr. McCoy about the requirements in
13 connection with the publication of freight rates.
14 Do you as a traffic man think that this should be
15 changed; that the railways' pricing activities be
16 assessed?

17 A. How do you mean that?

18 Q. I had in mind the matters that were
19 dealt with by Mr. Mann when he was discussing the
20 question with Mr. McCoy.

21 MR. SINCLAIR: Page?

22 MR. CUMMING: I am sorry, I don't have the
23 page.

24 Q. Speaking generally, my recollection
25 was that Mr. McCoy's evidence was something to the
26 effect that he felt the railways would be better
27 off if they were not required to report. Now, I
28 am afraid I have sort of lost myself, Mr. Roberts,
29 and probably I have lost you, too.

30 A. Is the question whether the railways
should be required to publish rates for public



1
2 knowledge?

3 THE CHAIRMAN: Publish rates?

4 THE WITNESS: Well, in my opinion, sir,
5 we should continue to publish rates for public
6 knowledge, yes sir.

7 MR. CUMMING Q: You don't feel, I take
8 it, then, that you are hampered by these requirements?

9 A. If you did not publish your rates
10 there would be areas where a concession might be
11 made to one shipper and not made for another, and
12 I think that would be dangerous to all concerned.

13 MR. CUMMING: I see, thank you.

14 THE CHAIRMAN: Mr. Mauro?

15 MR. MAURO: I think that perhaps in view
16 of the time ---

17 THE CHAIRMAN: Yes, we will have a recess
18 now.

19 ---Short recess.
20
21
22
23
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30



1
2 MR. CUMMING: Before my friend Mr.
3 Mauro goes on, Mr. Chairman, there was just one more
4 matter which I overlooked which I wanted to ask
5 Mr. Roberts about.

6 Q. On page 23 of your precis, Mr.
7 Roberts, you set out that table of comparative
8 American rates; there are more of them in Exhibit
9 No. 85. What I was concerned about is, is the
10 volume of grain moving on those American rates
11 comparable to the volume of Canadian grain movements.

12 A. It is quite heavy through Duluth.

13 Q. What about westbound?

14 A. There is a substantial movement
15 westbound, too, Mr. Cumming.

16 Q. Would it be anything like the order
17 of the Canadian grain movement?

18 A. It is substantial, very substantial,
19 but I don't think it is as heavy as our movement to
20 Fort William.

21 MR. CHAIRMAN: Mr. Mauro?

22 MR. MAURO: Mr. Roberts, before I start
23 our verbal wrestling I want to join with the
24 remarks of the Chairman in congratulating you on
25 your recent promotion.

26 THE WITNESS: Thank you very much, Mr.
27 Mauro.

28 CROSS-EXAMINATION BY MR. MAURO:

29 Q. Now, Mr. Roberts, if you turn to
30 page 2 of the precis, the first complete paragraph
following the quotation, where you state that the



1
2 authority of the Board extends to all freight rates
3 in Canada with the exception of the statutory rates.
4 I was wondering whether you could tell us whether
5 the Board's authority extends to the removal of
6 discriminations on the rates from the Maritimes
7 to Toronto as compared with the rate from Winnipeg
8 to Toronto on the same commodity. Was there any
9 equalization of rates between the Maritimes, eastern
10 Canada, between the Maritimes and western Canada?

11 A. Well, no. You mean in respect
12 of the level?

13 Q. Does equalization apply to the
14 Maritimes?

15 A. No, sir.

16 Q. And if, in fact, there was a
17 different rate level between the Maritimes, a point
18 in the Maritimes to Toronto and Winnipeg to
19 Toronto, would the Board have the power to change
20 that rate?

21 A. No, providing it comes within the
22 scope of equalization as the Board has dealt with
23 it. No, it would be outside the jurisdiction of
24 the Board.

25 Q. That would be another area that the
26 Board would not have authority?

27 A. That is right.

28 Q. And skipping one paragraph, you make
29 this statement:

30 "Railways, in addition to the usual
economic controls affecting all businesses,



1
2 are subject to direct regulations
3 under the Railway Act and to control
4 and supervision by the Board of
5 Transport Commissioners in setting freight
6 rates ..."

7 Now, you stated that you are not only
8 affected by the usual economic controls but also
9 in regulation under the Act. I suggest that this
10 must be qualified by your exemption from the anti-
11 combines legislation and the laws relating to
12 trust and monopolies.

13 MR. SINCLAIR: Members of my profession
14 have made a good living out of that for a good many
15 years, and I don't think we are going to give that
16 over to traffic men in regards to combines
17 legislation.

18 MR. MAURO: Apparently there are certain
19 statements that traffic experts can make in
20 the examination in chief but when they are cross-
21 examined they have a limited ~~knowl~~edge of these
22 items. I am asking the question. If Mr. Roberts
23 doesn't know ---

24 THE CHAIRMAN: What was the question,
25 Mr. Mauro?

26 MR. MAURO: I will phrase it differently.

27 Q. Do you know, Mr. Roberts, whether
28 or not the C.P.R. is subject to the combines
29 legislation?

30 MR. SINCLAIR: Which combines legislation?



1
2 MR. MAURO: The Canadian one, as opposed
3 to the American one.

4 MR. SINCLAIR: What do you mean by
5 "Canadian combines legislation"?

6 MR. MAURO Q: Can you deal with the
7 C.N.R. in the fixing of rates? Can you have
8 meetings on the setting of rates and do you have
9 meetings on the setting of rates?

10 A. Well, we negotiate with the shippers
11 in conjunction with the Canadian National Railways
12 in negotiating a just and reasonable level of
13 rates to move the traffic.

14 Q. And yet there is no limitation put
15 on the number of rail lines you want to build ---

16 THE CHAIRMAN: I think you can ask
17 him, Mr. Mauro, what he can do, but you can't ask
18 him a question of law.

19 MR. MAURO: That was the nature of my
20 question, Mr. Chairman.

21 Q. And I suggest to you that one of
22 the purposes in the regulations was to offset the
23 monopoly position of railways in Canada. Do you
24 agree with that?

25 A. Originally, Mr. Mauro?

26 Q. And today - originally, historically
27 and today?

28 A. I don't know that there is any
29 monopoly position today. There are too many
30 trucks on the road, and also there are ships on
the Great Lakes, ships moving through the Panama



1
2 Canal.

3 Q. How about grain? You told us a
4 little while ago that you didn't think that grain
5 would be diverted even if it went over 100 per
6 cent.

7 A. How do you mean "diverted"?

8 Q. Mr. Cumming a few moments ago said:
9 Do you think this increase in the price of grain
10 of 100 per cent would cost you the loss of this
11 traffic? And you very candidly said: "I don't
12 think it will." I say to you that there are
13 areas in this country still, Mr. Roberts, where
14 the actual monopoly position of the railways is
15 pretty secure.

16 A. Well, there are areas where trucks
17 do not operate, Mr. Mauro, but traffic is moving
18 freely from those points. That is our business,
19 to keep it that way.

20 Q. Are you personally familiar with
21 the historical background, particularly the C.P.R.
22 in western Canada and the agitation almost right
23 from its inception to have control of rates from
24 the C.P.R.?

25 A. Well, by certain sections of the
26 public in western Canada there has always been
27 that cry.

28 Q. Particularly the province of
29 Manitoba. Many a statute is in the Manitoba
30 legislation, Mr. Roberts, just trying to offset
31 the monopoly provision of the Act of 1881. It was



1
2 the much-maligned Crow's Nest agreement, that, in
3 fact, introduced regulations of the C.P.R.

4 A. I don't know about that, Mr. Mauro.

5 Q. We will check it together.

6 MR. SINCLAIR: Are you looking for the
7 section of the company's charter, Mr. Mauro?

8 MR. MAURO: No, I am not.

9 MR. SINCLAIR: Well, there is that
10 section in the company's charter, Mr. Mauro.

11 MR. MAURO: I am referring to the
12 tolls.

13 Q. Section 9 of the Crow's Nest Pass
14 Agreement says:

15 "So soon as the said railway is
16 opened for traffic to Kootenay Lake,
17 the local rates and tolls on the railway
18 and on any other railway used in connection
19 therewith and now or hereafter owned
20 or leased by or operated on account of
21 the Company South of the Company's
22 main line in British Columbia, as well
23 as the rates and tolls between any points
24 on any such line or lines of railway
25 and any point on the main line of the
26 Company throughout Canada, or any other
27 railway owned or leased by or operated
28 on account of the Company including its
29 lines of steamers in British Columbia
30 shall be first approved by the Governor in



1
2 Council or by a Railway Commission,
3 if and when such Commission is established
4 by law, and shall at all times thereafter
5 and from time to time be subject to
6 revision and control in the manner
7 aforesaid."

8 Pursuant to this agreement, that provision
9 in the agreement signed by the C.P.R. in 1903,
10 the Governor in Council did set up a regulatory
11 board to superivse the setting of rates by the
12 C.P.R.?

13 A. I don't know that it would be
14 pursuant to that agreement. I don't know.

15 Q. Do you think there was some other
16 reason for putting that into the Crow's Nest
17 Pass Agreement?

18 A. I don't know, sir.

19 Q. Now, at the foot of page 2, the
20 second last paragraph, it says:

21 "Excluding the statutory rates on
22 grain and grain products which have
23 remained fixed since 1927, basic
24 principles establish the range of
25 rate levels."

26 Now, you state that basic principles
27 have established the range of rate levels except
28 in the case of the statutory rates, and I suggest
29 to you that there is another very important basic
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2 principle, that of public policy, the public interest
3 and national policy, which is also a very essential
4 principle in the fixing of rate levels. Do you
5 agree?

6 A. Not insofar as the railways themselves
7 are concerned. Parliament may decide matters like
8 that, and did in 1925, Mr. Mauro.

9 Q. And everytime that the Parliament
10 of Canada or the Governor in Council rescinds an
11 order of the Board of Transport Commissioners, is
12 that or is that not the introduction of a new
13 principle, the principle of the public interest
and national policy?

14 A. Well, that can be argued, Mr. Mauro.

15 MR. MAURO: I think it is rather an
16 important aspect of a witness giving expert testimony
17 on the basic principles of rate making in Canada.

18 THE CHAIRMAN: Well, phrase the question
again, Mr. Mauro.

19 MR. MAURO Q: I will repeat, Mr.
20 Roberts, that in my opinion one of the basic
21 principles of rate making in Canada is that of
22 the public interest and national policy, and, in
23 fact, the C.P.R. considers this ---

24 MR. SINCLAIR: The question started, Mr.
Chairman, by counsel saying: "In my opinion".

25 MR. MAURO: And I am asking Mr. Roberts
26 if that is his opinion.

27 MR. SINCLAIR: Well, we are not interested ---

28 THE CHAIRMAN: Counsel wants to know if
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2 the witness regards basic principles as including
3 national policy.

4 MR. MAURO: I asked the witness whether
5 the action of Parliament and the Governor in
6 Council having the power to rescind and vary orders
7 of the Board of Transport Commissioners introduces
8 the same sort of principle.

9 THE WITNESS: Well, it isn't a basic
10 principle of rate making.

11 Q. Do you, as an expert in setting
12 the freight rates for the Canadian Pacific Railway,
13 take into consideration what you deem to be in
14 the national interest or in the public interest?

15 A. Mr. Mauro, my job and the job of
16 the people in the Canadian Pacific Railway in
17 establishing freight rates is to maximize
18 the movement of tonnage over our railway and the
19 net revenue to the company.

20 Q. And those are the only two matters
21 which you take into account?

22 A. Yes, sir. They are business
23 principles.

24 Q. At page 3, Mr. Roberts, in your
25 precis, you set out that in all rates the value
26 of service to the shipper or consumer establishes
27 the upper limit and the lower limit is fixed by
28 the need on the part of the carrier to have rates
29 at a level no lower than the variable cost or
30 the cost of providing the service. Is that
correct?



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2 A. Yes.

3 Q. And between this value of service
4 and this cost of service - and I am using cost
5 in the sense you and I have just described it -
6 the railway is free to price its service in what
7 it has to offer.

8 A. Yes, in an effort to move the
9 traffic.

10 Q. I suggest that this statement is
11 not completely correct, that if it were true there
12 would be no need for a regulatory tribunal except
13 to fix the permissive level of earnings. I suggest
14 that you failed to deal with a third matter, namely,
15 the public policy and regulation, the purpose of
16 which is to protect the shipper against unfair
17 discriminatory prices.

18 A. Well, that is a factor under the
19 Railway Act. We cannot show undue discrimination
20 or undue preference.

21 Q. Between the value of service
22 principle and the cost of service principle the
23 railway is not entirely free to price its service.
24 It may put a price on it, but if a shipper thinks
25 he is being discriminated against he can come
26 before the tribunal.

27 A. That is what the Board of Transport
28 Commissioners is for.

29 Q. It is not just simply the value
30 or cost of service ---

A. I think I mentioned the Board of



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2 Transport Commissioners later on as being a body to
3 whom the shippers could appeal to.
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6 (Page 3483 follows)
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2 Q. In that same paragraph where you define
3 the lower limit, Mr. Roberts, you say that at a level
4 no lower than the variable cost of providing the service
5 in respect to any individual segment of traffic. I was
6 wondering if you could define for us what you mean by
7 an individual segment of traffic?

8 A. Well, that is each traffic movement that
9 we are dealing with, Mr. Mauro.

10 Q. Are passenger services deemed to be
11 an individual segment of traffic?

12 A. Well, Mr. Mauro, we are dealing with
13 passenger traffic in our day to day business in Canadian
14 Pacific Railways, and we are dealing with it on sound
15 business principles.

16 Q. When you deal with passenger traffic do
17 you deal with it as an individual segment of traffic?

18 A. Well, we deal with it with managerial
19 discretion. We use managerial discretion in respect
20 to our passenger service.

21 Q. And when you are exercising this managerial
22 discretion in regard to passenger services do you
23 exercise it on an individual segment of traffic?

24 A. Well, how big is an individual segment
25 of traffic? I mean, so far as passengers are con-
26 cerned, it is one person.

27 Q. I will go even further -- they are your
28 words, but is the passenger service treated in toto
29 as an individual segment of traffic?

30 A. Well, I would not say so, sir. I would
not say so.



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2 Q. The whole passenger is not an individual
3 segment?

4 A. Not dealt with as a whole. I mean, you
5 are speaking of it as one thing.

6 Q. The same way you deal with freight traffic.
7 When I asked you to define individual segment of traffic,
8 you said, "Mr. Mauro, it is each traffic movement."
9 And, so, I say, now, when you are dealing with
10 passenger traffic do you deal with passenger traffic
11 as an individual segment?

12 A. Well, not in the same sense, Mr. Mauro.
13 We deal with a movement of freight traffic -- an
14 individual commodity moving between two points, say,
15 just one segment.

16 Q. How about the movement of The Canadian
17 from Montreal to Vancouver? Is that an individual
18 segment of passenger traffic?

19 A. No. I would say you have to deal with
20 it -- well -- piecemeal, as it were. You assess the
21 situation throughout the service.

22 Q. And so that in the case of a freight
23 movement from Montreal to Vancouver, that would be an
24 individual segment of traffic; would it?

25 A. A freight movement from Montreal to
26 Vancouver?

27 Q. Yes.

28 A. One commodity, yes, sir.

29 Q. But the movement of people from Montreal
30 to Vancouver would not be an individual segment of
traffic?



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A. You have to treat the people differently.

Q. Yes, we certainly know that. We are going to try to see how differently we do treat people, because in the case of the individual segment of traffic you define for us, it must not meet its out-of-pocket cost?

A. That is a question -- we have explained in our submission, that is a question of managerial discretion, and the cost of that is not included.

Q. In what?

A. In the cost portion of the grain study.

Q. Oh, that has been explained many times, Mr. Roberts, and poor counsel from the provinces are, strangely enough, insisting that this is not a grain Commission, and I am interested in the fact that the lower limit of rates is fixed at providing your out-of-pocket cost on each individual segment of traffic, but that the same rule does not apply -- in other words, are you suggesting that in the case of The Canadian from Montreal to Vancouver, it does not have to meet its variable cost?

MR. SINCLAIR: I thought I would let my friend go on for a while, but I think you said yesterday, in regard to certain questions put to another witness, that the railways, pursuant to what the Commission said, they wanted us to deal with the whole passenger story. I do not want to stop my friend at all. He can ask his question, if he wants to.

THE CHAIRMAN: I think this Commission is entitled to have counsel get the answer from his witness



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2 or from some witness. If this witness can give you
3 the information -- you say so?

4 MR. MAURO: That is right.

5 THE CHAIRMAN: And at the proper time, it
6 would be a good place ---

7 MR. SINCLAIR: Mr. Chairman, I do not know --
8 but may I say this: that I thought that we were going
9 to, at your direction, present -- to use your words --
10 the whole passenger story. We have started that, but
11 if we are going to do it at this time, well, then, that's
12 fine.

13 THE CHAIRMAN: I think that ---

14 MR. SINCLAIR: Then, we won't have to do the
15 work.

16 THE CHAIRMAN: I think that if this witness
17 says he does not know, that ends it.

18 MR. SINCLAIR: He has not said that. All I
19 am saying is that this witness has not said a thing about
20 not knowing, and I have let my friend go on. I am not
21 objecting to the fact, except that I said I understood,
22 under the direction of the Commission and at the request
23 of my friends, that we were going to go into that.

24 THE CHAIRMAN: Does that not mean, Mr. Sinclair,
25 that to make his case in cross-examination, in one respect,
26 he should not try to bring it out with another one?

27 MR. SINCLAIR: Well, then, I think it is
28 quite all right, sir. We will say that our work that
29 we undertook to do may not be necessary, of course, and
30 that may very well happen.

MR. FRAWLEY: Surely it is an amazing situation.



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2 This is the General Traffic Manager, not only freight,
3 but passenger. He is the General Traffic Manager of the
4 Canadian Pacific Railway, and he has with him the Vice-
5 President of Traffic of the whole Canadian Pacific
6 Railway.

7 MR. SINCLAIR: I withdraw the objection, due
8 to the fact that my friend feels he is in some dis-
9 ability. Mr. Frawley seems to feel that way, and rather
10 than have further time wasted, I withdraw completely
11 any objections I was making.

12 MR. MAURO: Q. Do you have anything to do
13 with passenger service on the C.P.R.?

14 A. Mr. Mauro, I was appointed to this
15 position on September 1, 1959, and for some months
16 before that and since then I have been busily engaged
17 in preparing material for this Commission and I have
18 not yet had an opportunity of becoming deeply involved
19 in passenger traffic.

20 Q. So you do not know whether the principle
21 you have enunciated on page 3 of your precis -- that
22 principle being that the lower limit of the range of
23 rates is fixed by the need on the part of the carrier
24 to have rates at a level no lower than the variable
25 cost of providing the service in respect to any individual
26 segment of traffic . . .

27 You cannot now tell this Commission, as
28 General Traffic Manager of the C.P.R., whether that
29 principle applies to the passenger services?

30 A. Well, Mr. Mauro, I would prefer to leave
it to some later date.



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2 Q. You know what both of us are talking
3 about, don't you, Mr. Roberts, because we are going to
4 be alleging that the same principles should apply.

5 Mr. Roberts, in the last complete paragraph
6 on page 3, you bring out the fact that between the
7 upper and lower limits of the range, the railways, in
8 publishing rates on the many commodities which are
9 shipped daily, must necessarily take into consideration
10 factors such as competition by other forms of trans-
11 portation and commodity market conditions reflecting
12 the competition of foreign goods.

13 Now, we realize from this that you must con-
14 sider factors such as competition, including competition
15 of foreign goods. Is it also true that your rates
16 must reflect the need of Canadian goods to compete in
17 foreign markets?

18 A. We endeavour to do that, sir.

19 Q. So this is sort of a two-way street?
20 Your rates attempt, as best you can, to reflect the
21 competition of foreign products in the Canadian market,
22 and, similarly, your rates attempt to reflect the
23 necessity of Canadian products to compete in foreign
24 markets?

25 A. Import and export rates, yes, sir.

26 Q. Now, you state -- this is at the foot of
27 page 3:

28 "This is because it is not the function of
29 railway freight rates to offset geographical
30 or other disadvantages of industries or areas."
Do you consider it a function of railway freight rates



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2 to offset the geographical or other advantages of
3 industries or areas?

4 A. Well, that is saying the same thing in a
5 different way, Mr. Mauro.

6 Q. I see. Does the same principle apply, for
7 example, if a Winnipeg manufacturer is competing with
8 a Toronto manufacturer in a Vancouver market? Do
9 you apply the advantage that Winnipeg has geographically
10 over the Toronto manufacturer? Does the Winnipeg
11 manufacturer get a rate to Vancouver which points up
12 his geographical advantage over Toronto?

13 A. On a normal basis, yes.

14 Q. How about on a competitive basis?

15 A. Well, Winnipeg also, to my mind, is treated
16 in the same way as, say, Hamilton and Toronto, in an
17 agreed charge which we have in effect at Vancouver.
18 Winnipeg is in that agreed charge at the same rate,
19 which was the rate necessary to meet the competition.

20 Q. But as far as most of these rates, Mr.
21 Roberts, are concerned, the truth is that the Toronto
22 manufacturer is almost put in the same position as if
23 he were geographically located in Manitoba to get into
24 the Vancouver market?

25 A. I do not understand what you mean.

26 Q. I say he gets a rate to Vancouver which
27 is as low and frequently lower than the Winnipeg
28 manufacturer gets to Vancouver?

29 A. But the competition sets the pace. The
30 goods would be in there, anyway.

Q. I think this is because it is not the



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2 function of the railway freight rates to offset geo-
3 graphical or other disadvantages, and I just wondered
4 if it was the job of the freight rates to offset geo-
5 graphical advantages?

6 A. You are just meeting the competitive
7 situation, Mr. Mauro.

8 Q. And when the Winnipeg manufacturer wants
9 to compete in the Toronto market and there is a Vancouver
10 manufacturer in the Toronto market, does Winnipeg get
11 the advantage of its geographical location, being
12 1500 miles closer to Toronto?

13 A. I imagine in the level of the rates it is
14 reflected, Mr. Mauro.

15 Q. In the level of rates?

16 MR. SINCLAIR: Your answer is Yes.

17 A. Yes, except in the case of competition.

18 MR. MAURO: Q. Except in the case of
19 competition?

20 COMMISSIONER GOBEIL: Mr. Mauro, you would
21 not mean that someone from Winnipeg would pay more than
22 someone from Toronto?

23 MR. MAURO: I certainly do, Mr. Gobeil, and
24 you are going to hear plenty about it in Western Canada.

25 MR. FRAWLEY: I should say so.

26 MR. MAURO: Q. Then, turning to page 5,
27 Mr. Roberts, you have referred there to items that have
28 to be weighed in allocating a rating to any particular
29 commodity.

30 Your first item, "Value of goods," and you
say:



"The value of the goods must at all times be borne in mind in relation to ability of any traffic to pay transportation charges."

And I think this is a sound statement, Mr. Roberts, and I ask you whether or not in your opinion horizontal percentage increases distort this principle, "value of goods"?

A. No, Mr. Mauro, the increases are applied comparatively for the service performed.

Q. Now, we are discussing -- so that I do not mislead you, Mr. Roberts -- we are discussing the principle of value of goods as enunciated on page 5, and I am now going to quote you three rates that Mr. Stechisin has worked out from our Waybill Analysis, 1949 to 1958. And I will ask you a question after I have quoted them.

"Agricultural implements, east to west, 1949, \$30.08; 1958, \$62.55; for an increase of \$32.57 a ton.

"Agricultural implements, east to east, within the Eastern zone, 1949, \$9.33; 1958, \$16.43, for an increase of \$7.10 a ton."

Now, the agricultural implements over the nine-year period didn't change in their value for the east to east or the east to west consumer, but the cost in dollars went up in one case \$32.57, and in the other case \$7.10.

MR. SINCLAIR: Pardon me, Mr. Mauro. Did you say that the value of the agricultural implements to the consumer did not increase in 1949 ---

MR. MAURO: No, I did not say that at all.



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2 I said that the value of the agricultural implement
3 to a citizen in Manitoba and a citizen in Ontario
4 was the same value of the implement. In other
5 words, the implement had a fixed value in 1949, and
6 it had a fixed value in 1958, and that value was the
7 same to the Ontario farmer as it was to the Manitoba
8 farmer.

9 MR. SINCLAIR: Your economics have confused
10 me.

11 COMMISSIONER ANSCOMB: You are not talking
12 about dollars; you are talking about a man having a
13 washing machine, and no matter what it cost, it still
14 washes shirts.

15 MR. MAURO: I am talking about agricultural
16 implements in that case, Mr. Roberts.

17 MR. SINCLAIR: I do not know what proof my
18 friend has to offer that the value of an agricultural
19 implement is the same irrespective of what land it is
20 used on -- I do not know.

21 THE CHAIRMAN: Mr. Sinclair, we are not
22 talking about dollar value at all. He is talking
23 about a plow or a binder, or a tractor, as the case may
24 be, as such.

25 MR. MAURO: As such, and that that product
26 had the same value. In other words, when the product
27 left the Massey-Ferguson plant, it had a dollar value
28 fixed on it and that dollar value for the Ontario
29 farmer to buy it was the same as for the Manitoba
30 farmer.

THE CHAIRMAN: You are trying to say that



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2 the implement in each instance was sold f.o.b. plant
3 in Toronto.

4 MR. SINCLAIR: Is the witness to make the
5 assumption that agricultural implements are always sold
6 f.o.b. plant?

7 MR. MAURO: Q. I am saying and asking the
8 witness whether there is consistency in the argument
9 of the value of goods, and I asked him whether he thought
10 horizontal percentage increases distorted this concept
11 of value of goods, and I pointed out in the case of
12 agricultural implements over the nine-year period the
13 cost to the individual shipper in the western region
14 went up \$32.57, while in the eastern region it went
15 up \$7.10, and did the value of the goods to the individual
16 shippers in those two regions, Mr. Roberts, go up
17 accordingly?

18 A. You say that the value -- the price of
19 the goods did not go up, but the fact remains that the
20 service we perform, the value to the particular com-
21 modity had gone up because of our increased cost.

22 Q. Not because of your increased costs, but
23 because of the method of applying them by horizontal
24 increases.

25 And there are two more that I want to simply
26 put on the record.

27 In 1949 automobile parts, east to west, \$40.79;
28 1958, \$87.49, for a total increase of \$46.70; east to
29 east, 1949, \$10.44; 1958, \$11.44, an increase of \$1,
30 as opposed to \$46.76; and soap, which we are using in
ever-increasing amounts in western Canada now, in 1949,
\$35.57; in 1958, \$50.83 per ton, for an increase of



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2 \$15.26; east to east, 1949, \$8.50; 1958, \$8.94, for
3 an increase of 44 cents, as opposed to \$15.26.

4 Now, my simple question is ---

5 MR. SINCLAIR: Let him get that statement
6 in his hand. He is very good at figures, but that is
7 quite a lot.

8 THE CHAIRMAN: I take it that what you are
9 trying to do now is not only cross-examine this witness
10 but point out that there are inequities -- or, iniquities,
11 as you say in the Maritimes they may be -- and in that
12 respect you allege that the horizontal increase is an
13 inequity, and Mr. Sinclair does not agree.

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17 (Page 3498 follows)
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2 MR. MAURO: That is right. As we say,
3 we haven't changed our minds in this Commission; whether
4 Mr. Sinclair wants it or not, we are going to deal
5 with the whole subject matter as we go along.

6 Q. Mr. Roberts, do you think the
7 horizontal percentage increases and their effect
8 as demonstrated there does distort the principle of
9 value of goods, as enunciated by you on page 5 of
10 your precis.

11 A. No sir, because the value of the
12 goods would be higher in Winnipeg compared with
13 Toronto.

14 Q. And it would rise coincidentally
15 by the same percentage increase that you happen to
16 have received from the Board of Transport Commissioners?

17 A. That is a method of pricing on the
18 part of the manufacturers; it is a postage stamp
19 price.

20 Q. I see. If there was any increase
21 on the value of that commodity to the Winnipeg farmers
22 as opposed to the Toronto farmer, it was because
23 of the horizontal increase?

24 A. I wouldn't say that, sir.

25 MR. SINCLAIR: I presume - and I don't want
26 to rise again, and I do this so that I will not have
27 to do it - I presume counsel will follow the usual
28 rule that if he wants to put a statement of a witness
29 in as a fact, and the witness having disagreed with
30 him, he will call a witness to prove it.

31 THE CHAIRMAN: To save time, Mr. Mauro has



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2 put certain rates to Mr. Roberts, and I think Mr.
3 Roberts should have the opportunity of checking
4 them and seeing if they are right, and if he accepts
5 those I don't see any necessity for another witness.

6 MR. SINCLAIR: All he says, Mr. Chairman,
7 is that he shakes his head to me; he doesn't need
8 to check the rates because even if they are wrong
9 in the questions put to him, the right rates will
10 not change his answer.

11 THE WITNESS: That is right.

12 MR. MAURO: That is the point, I don't
13 have to call a witness to change Mr. Roberts' mind;
14 if I am calling any witnesses it will be to change
15 the mind of the Commission.

16 MR. SINCLAIR: I wouldn't know about that.
17 I don't know that you can call a witness that can
18 change the facts.

19 THE CHAIRMAN: The rates are published,
20 and if Mr. Roberts accepts the rates as correct and
21 the question is put to him, then that should satisfy
22 the record, and if he doesn't accept them then
23 you can prove he is wrong.

24 MR. MAURO: I don't think that Mr. Roberts
25 for one moment questions these rates.

26 THE WITNESS: I accept the rates.

27 MR. MAURO Q: Certainly, Mr. Roberts.

28 Now, Mr. Roberts, you told my friend Mr.
29 Cumming that the class rates represent in the
30 Canadian movement approximately 8 per cent of revenue
and 2 per cent of tonnage, and I wondered whether you



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2 still considered those rates to be an effective basis
3 for rate making?

4 A. Yes.

5 Q. Is it correct, then, to state that
6 you are now basing your whole rate structure on
7 rates that are effectively applicable to only 2 per
8 cent of the tonnage carried?

9 A. We are making rates related to the
10 classification and the class rates, that is correct,
11 but there are other traffic movements to which the
12 class rates apply; that is to say, as Mr. McCoy
13 stated yesterday, we will on occasions and for
14 competitive reasons authorize a lower class in order
15 to move traffic.

16 Q. Why don't we have a real revamping
17 of the whole class rate setup?

18 A. What you are saying is that you
19 could have a commodity level on rates for all
20 movements?

21 Q. That is right.

22 A. Mr. Mauro, you would have to have
23 a specific rate, and we don't have those, we don't
24 have those; you would have to have a specific rate
25 on every commodity that is covered in the classification
26 between every point in Canada.

27 Q. Why not just lower the classifications
28 to a lower class?

29 A. Why? Why should we, sir? The
30 class rates are moving traffic now freely; that is,
the traffic that is using those rates.



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2 Q. Two per cent of the tonnage is
3 moving traffic?

4 A. It still isn't negligible when you
5 get 8 per cent of your revenue; that is not a
6 small amount of money so far as I am concerned, Mr.
7 Mauro.

8 Q. I realize that, but ---

9 MR. SINCLAIR: About as much as the grain
10 rates.

11 MR. MAURO: Less, even, than that.

12 MR. SINCLAIR: You get 9 per cent for
13 those.

14 MR. MAURO: That is the reason I asked;
15 it was even less than the grain rates, and we had
16 a very complete study of the grain rate problem,
17 and I thought that this might warrant the same type
18 of situation. Let the witness answer.

19 MR. SINCLAIR: I just want to point out
20 to the Chairman and the Commission that it might
21 be of assistance to the witness to know that we are
22 talking about the same amount of money as we get
23 for grain.

24 THE CHAIRMAN: Well, you made your point,
25 Mr. Sinclair.

26 MR. SINCLAIR: Thank you, Mr. Chairman.

27 MR. MAURO Q: Do you make more money on
28 the commodity rate or the class rate on the specific
29 in the particular commodity group when you get one
30 of those from a class rate into a commodity rate?

A. Well, we move it into a class rate



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2 level for ease of movement, ease of checking rates,
3 Mr. Mauro, and that method of publishing the commodity
4 scale refelects the relationship all the way down
5 the scale, and also reflects the taper as distance
6 increases.

7 Q. Well, on page 9 - and this is the
8 reason we are asking this question - on page 9 where
9 you deal with normal commodity rates, you say, "To
10 encourage the maximum movement of these goods for
11 the mutual benefit of industry and the railways,
12 there have been established over the years many of
13 these rates, which are know as normal commodity
14 rates."

15 Now, I just wondered, since it is for
16 the mutual benefit of both industry and the railways,
17 why we don't readjust.

18 A. Mr. Mauro, the class rates are moving
19 traffic now, and we could reduce the level of rates
20 and not get any more traffic.

21 Q. I ~~was~~ suggesting that the lower
22 level perhaps would add certain classifications.

23 A. Well, we are doing that where it is
24 necessary.

25 Q. We suggest, Mr. Roberts, that since
26 the majority of the traffic, as you said, the
27 majority of the traffic carried requires rates lower
28 than the class rates, and if you were to lower the
29 class rates to reflect the actual traffic pattern,
30 it would be in conformance with your desire to
maintain uniformity of treatment.



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A. Maintain uniformity.

Q. These would be published rates,
they would be new classifications?

A. I don't follow you, Mr. Mauro.

THE CHAIRMAN: Are you suggesting to him
now, Mr. Mauro, that if it were desirable that there
should be new classifications?

MR. MAURO: Yes, reflecting the actual
traffic pattern.

THE CHAIRMAN: Ask him if he agrees with
that.

MR. MAURO: I did, and I think that Mr.
Roberts said they were doing it when necessary.

THE WITNESS: You can't have more than
the nine we have now.

MR. MAURO Q: Yes sir.

A. Pardon me?

Q. If necessary to reflect the present ---

A. I don't see the necessity for it,
sir.

Q. So long as it continues to move even
one per cent of the tonnage they are effective rates?

A. It moves the traffic.

Q. Well, it moves the traffic that
hasn't got any other means, where competition hasn't
come in.

A. Oh. The trucks may not want this
kind of traffic.

Q. But it would hurt to put it into
a commodity classification?



1
2 A. The result of that would be we would
3 have less than we have now.

4 THE CHAIRMAN: You are thinking of revenues?

5 THE WITNESS: Yes sir.

6 MR. MAURO Q: At the foot of page 9, Mr.
7 Roberts, you say:

8 "In determining normal commodity rates
9 for specific movements between particular
10 points, the circumstances are analysed
11 in relation to the particular movement
12 and the rates are set at a level designed
13 to permit the maximum possible movement
14 of the traffic."

15 Could you possibly explain to the Commission
16 what particular circumstances or special considerations
17 are analysed in determining the specific commodity
18 movement as distinguished from the general commodity
19 rate?

20 A. We have had instances, Mr. Mauro;
21 for example, last spring there was quite a tonnage
22 of apples in British Columbia unsold, and in order
23 to assist the British Columbia Tree Fruits Limited
24 in disposing of them, we, for a temporary period,
25 established a lower basis of rates.

26 Q. And is this the only basis that you
27 do establish these specific commodity movements
28 for, sir, a limited period?

29 A. Oh no, but I can't put my mind to
30 any particular one, Mr. Mauro.



1
2 Q. You were referring to normal
3 commodity rates, not ---

4 A. It is still normal, it was still
5 normal.

6 Q. That was in distress for a limited
7 period?

8 A. That is right.

9 Q. What about where you are establishing
10 a regular indefinite commodity movement from Toronto
11 to Montreal; what particular circumstances or
special considerations are analysed?

12 A. Well, it could be a plant to plant
13 movement, Mr. Mauro, where we have had to haul in
14 and there is a further haul from one plant to the
15 other; it could be that.

16 Q. On page 11 of the precis you are
17 referring to agreed charges, and you conclude that,

18 "Under this agreement, the shipper
19 contracts to forward by rail a set
20 percentage of the traffic involved.
21 Penalties are provided for if the
22 agreement is not carried out."

23 To your knowledge have you ever assessed
24 or received payment for the penalty under the
agreed charges.

25 A. Yes, we did, in one instance, Mr.
26 Mauro.

27
28 (Page 3512 follows)
29
30



1
2 Q. Now, in the second paragraph you are
3 referring to the fact that Canadian industry faces
4 competition from foreign goods, and you state:

5 "To enable Canadian producers to meet
6 foreign competition, the railways frequently
7 make competitive rates or Agreed Charges at
8 the level necessary to meet this foreign
9 competition, for example, ferro phosphorous
10 from Buckingham, Que. to the British Columbia
11 coast to meet competition from Idaho and
12 Montana."

13 If there was another ferro phosphorous
14 plant other than at Buckingham, Quebec, would it be
15 the policy of the Canadian Pacific Railway to offer
16 them the same rate?

17 A. The same rate that the competition has
18 in the market?

19 Q. Yes.

20 A. Well, it so happens that we have this
21 -- so long as it is carrier competition, yes, Mr. Mauro.

22 Q. If there was a ferro phosphorous plant
23 in Halifax and it had to go into the British Columbia
24 market against competition from Idaho and Montana, you
25 would offer it the same rate?

26 A. If we were going to make money out of
27 it; that is all. We wouldn't do it unless we made money.

28 Q. And, similarly, if there was a Regina plant
29 you would offer the Regina plant on the same basis?

30 A. Yes, we would.

Q. On the export and import rates, at the



1
2 foot of that page, you say:

3 "In establishing these rates which are
4 sometimes lower than the level governing local
5 movements to or from the ports, cognizance
6 must be taken of the fact that the rail rate
7 constitutes only a portion of the total
8 transportation charge and must be considered
9 in relationship to the overall picture if
10 traffic is to move freely."

11 I am sure you will agree that this same
12 principle should apply to grain moving to export
13 positions?

14 A. Well, yes.

15 Q. I am wondering whether you could tell us
16 if, on your rates between Winnipeg and Emerson, you
17 apply the same principle, recognizing that the railway
18 rate is only a portion of the total transportation
19 charge?

20 A. We don't in the sense that we do with
21 import and export rates. We don't consider the United
22 States a foreign country, if that is what you mean.

23 Q. I thought you put this rate on ferro
24 phosphorous because there is competition from Montana
25 and Idaho?

26 A. You are asking me from Emerson to Winnipeg.
27 That is different.

28 Q. The principles are a little thinner out
29 in our part of the country?

30 A. No, they are not, sir.

Q. Isn't that ---



1
2 A. As a matter of fact, Mr. Mauro, we have
3 rates, we have been able to get rates in on sulphur
4 from Alberta down into California to compete with
5 producers in the United States who are shipping down
6 there.

7 Q. Probably saved a question from my
8 learned friend Mr. Frawley.

9 A. It works both ways. We have also rates,
10 on fruits into the United States and lumber, competition.

11 Q. What about northbound rates?

12 A. There are commodity rates northbound, sir.

13 Q. On this export and import level?

14 A. There isn't such a thing as a level.
15 You deal with each one specifically.

16 Q. Well, lower than the level governing
17 local movements?

18 A. Well, it would depend on the circumstances.
19 There are lower rates in, yes.

20 Q. Do you know any joint international
21 through rates, Chicago to Winnipeg?

22 A. Yes, there are through rates.

23 Q. And they are lower than the local level?

24 A. That is very general. They are com-
25 modity rates.

26 Q. But in establishing these rates, that
27 through rate from Chicago to Winnipeg might be lower than
28 the local level?

29 A. I don't think below, Mr. Mauro.

30 THE CHAIRMAN: I think Mr. Roberts could check
that Chicago-Winnipeg rate for tomorrow morning.

MR. SINCLAIR: I think, Mr. Chairman, that in



1
2 view of what was said today by my friends they are not
3 saying that the Commission has overruled the position
4 in regard to the purpose of these hearings at this time
5 which was set out in pages 129 and following of the
6 preliminary hearing in any way whatsoever.

7 THE CHAIRMAN: We will check those.

8 We will adjourn till ten o'clock tomorrow
9 morning.

10 ---Adjournment.
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Mr. Macpherson

ROYAL COMMISSION

ON

TRANSPORTATION

HEARINGS

Proceedings before the Commission

HELD AT

OTTAWA

VOLUME No.:

25

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ROYAL COMMISSION ON TRANSPORTATION

Proceedings of hearings held in
the Court Room, Board of Transport
Commissioners Offices, Ottawa,
Ontario, on the 22nd day of
January, 1960

COMMISSION

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Ottawa, Ontario,
January 22, 1960

---On commencing at 10.00 a.m.

MR. DICKSON: Mr. Chairman, before we get under way I wonder if I might, with your permission, make reference to something which appears this morning in The Montreal Gazette announcing the promotion of our friend Mr. Sinclair to the position of Vice-President and General Counsel of the Canadian Pacific Railway.

On behalf of counsel present, may I extend heartiest congratulations to Mr. Sinclair, and if I might introduce a personal note, it was back in the Manitoba Law School that our friendship began in 1934, and we were both very ignorant and very pecunious students in that very learned institution. And I think, as far as Mr. Sinclair is concerned, in any event, the learning he acquired there stood him in good stead.

I do not think this is an unexpected promotion because we all know how highly he is regarded by the senior members of the railway, and the work he has done for the railway in the last few years, and that does not make any less the pleasure in the recognition of Mr. Sinclair's ability.

THE CHAIRMAN: I am sure that it gives me personally a great deal of pleasure to congratulate you, Mr. Sinclair. I have known Mr. Sinclair since his early days with the railway, and I do not think there is anybody who could be chosen by the company who is more familiar with every phase of railway work than Mr. Sinclair. And what has always impressed those who



1
2 have had to deal with him is his absolute zeal for his
3 company; what is more, his knowledge of his subject,
4 and we congratulate him -- this shrinking prairie flower
5 that has become Vice-President of the Canadian Pacific
6 Railway. We are very much pleased.

7 While I am speaking of him, I also want to
8 speak of Mr. Evans. Mr. Evans may not be as well known
9 to some of you as he is to some of us, but I can say
10 truthfully that there is no man that I have had occasion
11 to meet professionally, either in this room or in the
12 Supreme Court, whose argument was more logical, more
13 close to reason, more difficult to answer; and Mr.
14 Evans, I trust, will have a very long and pleasant
15 retirement and have the best wishes of everyone who
16 knows him.

17 Mr. Sinclair, I am sure we congratulate you.
18 The Commission does congratulate you and I do personally.
19 But I am sure that we must hear from at least one other
20 gentleman before the matter will be completed. I call
21 on Mr. Frawley.

22 MR. FRAWLEY: Mr. Chairman, I receive the
23 morning Gazette on my doorstep about seven o'clock in
24 the morning, and I looked at it this morning. I saw
25 there were such important things as the visit of the
26 Prime Minister of Japan to Ottawa, but I was not
27 interested in that at all. As I turned the pages
28 I thought it was just another edition of this dreary
29 Montreal Gazette, the lover of the Crow's Nest Pass
30 rates.

And then I turned to the page that contained



1
2 the picture of my friend Frank Evans and friend Ian
3 Sinclair, and there I saw that something had happened
4 that, of course, I was quite sure was going to happen
5 all along. If anyone ever exploded into the vice-
6 presidency of the Canadian Pacific Railway, I think we
7 can say that Mr. Sinclair did. He exploded into that
8 by the sheer force of the application of his peculiar
9 kind of ability and his notorious capacity for hard
10 work.

11 Personally, I hope that this will make him a
12 little easier to live with, but I may say at once that
13 I have no really serious expectation of that. I am
14 afraid that he is too dedicated to his beloved Canadian
15 Pacific to be thrown off his stride by even this very
16 fine promotion.

17 I do extend most sincerely my heartiest
18 congratulations to the boy from Boissevain, and I am
19 sure that -- and I hope this may help to put him a
20 little off his stride -- I am sure that even better
21 things are in store for him. I wish him, though, in
22 the meantime, many years of service with his very fine
23 railway.

24 Like you, Mr. Chairman, I also want to say a
25 word about Mr. Frank Evans. From my early youth, I have
26 always been somewhat of a hero worshipper, and I am
27 inclined to say that I cannot exactly say that Frank
28 Evans was ever a hero of mine, but I had always a
29 tremendous admiration for his ability. He is, without
30 doubt, the very best railway lawyer in Canada. And,
in this room, I was sometimes almost driven to



1
2 distraction by the caustic comments that he would pour
3 upon me and upon the poor efforts I was making for the
4 Province of Alberta in the revenue cases; but, with that,
5 I never lost my very great admiration for his ability.

6 I wish him well in his retirement. He cer-
7 tainly has worked hard for the Canadian Pacific and he
8 deserves every bit of it, and I hope it will last for a
9 long time.

10 MR. SINCLAIR: Mr. Chairman, I do wish to
11 thank you for your very, very kind words -- particularly
12 on behalf of Mr. Evans who is not here -- and my friend
13 Mr. Frawley also. I will certainly see that they are
14 brought to his attention. I also thank my friends
15 Brian Dickson, and also Mr. Frawley for their very
16 kind words about myself and their wish for my continued
17 ability to try to see that at least one side of the
18 story is presented wherever we happen to be together.
19 And I hope that in the future my relations with them
20 particularly outside the court room, continue as they
21 have in the past.

22 THE CHAIRMAN: Thank you.

23 Now, before we start, yesterday morning we had
24 an off-the-record meeting when we discussed dates.
25 Yesterday afternoon, after we adjourned, the Commission
26 got together.

27 Now, it is very, very difficult, and we tried
28 to take into consideration what everybody wanted, which
29 is very difficult indeed; but we have finally prepared a
30 list which will be circulated, and it will indicate what
our programme is for the future and when we will expect



1
2 the various interested parties to come before us.

3 Now, we would be glad to discuss this with
4 you, but, generally speaking, I think we will have to
5 take this as final now, because we cannot keep changing
6 all the time.

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15 (Page 3525 follows)
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2 I perhaps should say that we are starting,
3 as indicated already, on the 14th, 15th and 16th
4 in Toronto, where the Ontario government and
5 regional briefs will be submitted.

6 Then, we will go to Quebec on the 17th,
7 18th and 19th, and we will be back in Ottawa on the
8 23rd to hear the commercial and civic organizations.

9 Then, on the 25th, if there are any of
10 those to finish, we will finish them, and then go
11 on with the Trucking Association, and after that
12 have the deferred cross-examination of the railways'
13 witnesses on the cost studies, and then go on with
14 the Maritime Transportation and the Ontario
15 Government.

16 On the 30th we will have the other
17 governments and the marketing organizations to wind
18 up, and then we will give, on the 4th of July, an
19 opportunity to the railways to present their case,
20 and by this time the case will be in for all the
21 provinces; so, what they have requested, an opportunity
22 of answering it, ~~will be available to them.~~

23 Now, so far as the provinces are concerned,
24 while the list is there and the list has been sent
25 out, if they want to shuffle things among themselves,
26 well, that is their privilege, but at the same time
27 this is the general pattern that will be followed.

28 MR. MAURO: I just want to correct, not
29 the position, but the historical fact that British
30 Columbia is not senior to Manitoba.

MR. FRAWLEY: I must admit that Alberta is



1
2 not senior to Quebec.

3 THE CHAIRMAN: Well, we have done the
4 best we can, and if there are any slight errors
5 they can be fixed up later.

6 Mr. Mauro?

7 ROBERTS, JAMES MERRICK, resumed.

8 THE WITNESS: Mr. Sinclair, yesterday
9 when Mr. Cumming was cross-examining me at page 3454
10 of the transcript, reference was made to a statement
11 which would show the mileage block progression in
12 the Crow's Nest rates, and we undertook to prepare
13 a statement for the Commission which would indicate
14 that progression, and I have done that.

15 MR. SINCLAIR: Perhaps we should file it,
16 then.

17 MR. COOPER: It will be Exhibit No. 88.

18 ---EXHIBIT NO. 88: Canadian Pacific Railway,
19 statutory grain rates to Fort
William, mileage groups.

20 THE WITNESS: Likewise, sir, at the closing
21 of the session yesterday, the closing portion, Mr.
22 Mauro was discussing with me the question of
23 through rates, through commodity rates from Chicago
24 to Winnipeg, and you, sir, suggested that perhaps
25 I would have an opportunity of checking some of
26 those rates and have them available this morning.

27 I have done so, sir, and I would like to,
28 if I may, put a few examples on the record of through
29 commodity rates.
30



1
2 These are taken from Soo Line tariff 3J,
3 ICC No. 7500, and in Item No. 2710 there is a rate
4 on alumina sulphate from Chicago to Winnipeg of
5 \$1.10 per thousand lbs., minimum 40 thousand lbs.

6 In Item No. 3245-A, supplement 98, there
7 is a rate on slate dust from Chicago to Winnipeg
8 of \$10.47 with a minimum of 80 thousand lbs.

9 In Item No. 3320-G, supplement 98, there
10 is a rate on freight of all kinds - this is the
11 description with some exceptions - of \$2.28 per
12 one thousand lbs., minimum 36 thousand lbs.

13 There is also a rate in Item No. 4075 on
14 linoleum paste of \$1.65, minimum 30 thousand lbs.

15 There is also a rate in Item No. 4255-A,
16 roofing granules - I am sorry, I don't have that
17 figure.

18 There is also a rate on traction engines
19 of \$1.69, minimum 20 thousand lbs.

20 There is also Item No. 4646-C on traction
21 engines.

22 MR. MAURO: Q. Did this include
23 any class rates, Mr. Roberts?

24 A. No sir, these were all commodity rates.

25 Q. Perhaps we might put a couple of
26 class rates - no, these, too, are commodity rates
27 from the various points, and just to have the picture
28 before the Commission, this is from the Western
29 Trunk Line, WTL, 2001-F, furniture ex Lexington,
30 North Carolina, to Emerson, Manitoba, \$2.95, and
to Winnipeg it is 64 cents.



1
2 A. It is from the border to Winnipeg,
3 64 cents.

4 Q. That woks out that the 1572 miles
5 from Lexington, North Carolina to Emerson, is 3.7
6 cents per ton mile, and the 66 miles to Winnipeg
7 is 19.1 cent per ton mile. Now, corn syrup ---

8 A. May I ask the minimum on the
9 furniture?

10 Q. 25 thousand and 14 thousand. Corn
11 syrup, ex Chicago, this is 2000-F, to Emerson,
12 88 cents and to Winnipeg 52 cents, and the 761
13 miles from Chicago to Emerson, works out to 2.3 cents
14 per ton mile and the 66 miles to Winnipeg works out
15 at 15.8 cents per ton mile.

16 We don't have the minimum weight on that,
17 Mr. Roberts, but we will try and get that for you.

18 Tires ex Detroit, WTL 338-N, to Emerson,
19 \$1.73; to Winnipeg it is 64 cents, and the revenue
20 per ton mile for the 922 miles to Emerson is 3.8
21 cents, and for the remaining 66 miles to Winnipeg
22 it is 19.1 cent, and we will get you that minimum
23 weight, Mr. Roberts.

24 Thank you very much, Mr. Roberts, for
25 that information.
26
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28
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30



1
2 Q. If you would turn to page 12 of your
3 precis, Mr. Roberts?

4 A. Yes, sir.

5 Q. You make the statement that the railways
6 are clearly free to discriminate or give preferences as
7 part of their pricing activities, but they must be sure
8 in doing so that the result is not unjust.

9 At page 9 you had stated -- I am reading the
10 second paragraph under "Normal Commodity Rates," the
11 second paragraph?

12 A. Yes, sir.

13 Q. "In this way the commodity rates give
14 effect to the various factors used in allocating
15 ratings in the Classification as well as the
16 special needs of the producers, while at the
17 same time maintaining uniformity of treatment."
18 I wonder if you could reconcile uniformity of treatment
19 and your freedom to discriminate or give preferences
20 as part of their pricing activities?

21 A. In what way do you mean that?

22 Q. It seems to me to be almost a contradiction
23 of terms that there should be uniformity of treatment
24 but that you are free to discriminate or give preferences
25 as part of your pricing activities?

26 A. Well, there is a difference between dis-
27 criminating and unjustly discriminating, Mr. Mauro, the
28 distinction being that we can discriminate on one move-
29 ment that doesn't affect the traffic of another movement
30 unjustly.

Q. And that is still maintaining uniformity



1
2 of treatment?

3 A. Yes, because one isn't hurt by the other.

4 Q. At page 13, Mr. Roberts, you state that
5 the rates on grain traffic moving to export positions
6 in Western Canada have remained fixed since 1927 and
7 are at the level established in 1899 or lower. Do
8 you feel that these rates were related to the other
9 rates at that time, that they had some direct relation-
10 ship to other rates in the freight rate structure at
11 that time?

12 A. 1927?

13 Q. Yes.

14 A. I don't know that they were related, but
15 I would say that they were considered to be fair in
16 relation to the rest of the freight rate structure.

17 Q. As a matter of fact, Mr. Roberts, these
18 rates were not related to anything else but rather
19 arrived at by agreement between the C.P.R. and the
20 Government?

21 A. Not the rates in 1927.

22 Q. What was the level of rates in 1927 as
23 compared to the rates in 1897?

24 A. Well, the level of rates was set in
25 relation to the agreement of 1897 for general applica-
26 tion in Western Canada, just the level of rates.

27 Q. As a matter of fact, the 1927 rates were
28 identical to the rates established under the Crow's
29 Nest Pass Agreement?

30 A. From main line points only, sir.

Q. And they had about as little relationship



1
2 to other rates at that time as your agreed charge rates
3 have today?

4 A. I would say, Mr. Mauro, that they were
5 considered to be fair and reasonable in relation to the
6 other rates in 1927.

7 Q. Just as your rates under agreed charges
8 today are deemed to be fair and reasonable?

9 A. That is right, in light of the competition
10 we have to meet.

11 Q. Could we call this agreed charge No. 1?
12 Would that be another name for the Crow's Nest Pass
13 Agreement?

14 A. I don't think that is correct, Mr. Mauro.

15 Q. While I may be sounding facetious, I
16 think it is important in this issue. Under your
17 present agreed charges you contract ---

18 MR. SINCLAIR: Subject to cancellation at
19 one year's notice.

20 MR. MAURO: Q. Under your present agreed
21 charges you contract to carry the goods for a specified
22 minimum period and for an indefinite period subject to
23 ninety days' notice by either party for a stipulated
24 price?

25 A. That is correct.

26 Q. Normally it would be for a year definite
27 and ninety days' notice thereafter?

28 A. Well, the ninety days could start after
29 nine months. It could remain in effect for one year.

30 Q. There is a definite period, a year, and
then indefinitely unless notice is given by either party?



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A. Yes.

Q. And this is for an agreed tonnage and an agreed price?

A. Yes.

Q. And under the present situation, if the other party maintains his part of the bargain, you are bound by the period as set?

A. That is right.

Q. Under the present agreement and contract the shipper doesn't pay you anything, there is no consideration in actual money; he promises to ship X percentage of his tonnage?

A. Yes, and abide by the principles of the agreement.

Q. But he doesn't give you anything else in the way of money or shares in his company, or anything like that?

A. No.

Q. Under the Crow's Nest Agreement you agree to carry grain eastbound and other commodities westbound at a specified rate in perpetuity?

A. Yes.

Q. And you received approximately \$3,500,000 and the land grants?

A. I don't know that we received any land grants from the Dominion Government.

Q. Well, had the Dominion Government not put you in the position to complete the rail line, do you think that you would have received the land grants in excess of two million acres in British Columbia?



1
2 A. That was from the Province of British
3 Columbia in carrying out this Kootenay Southern agree-
4 ment.

5 Q. I think you and I agreed that you re-
6 ceived \$3,500,000?

7 A. That is correct.

8 Q. The Government has never gone back on its
9 part of the bargain, to your knowledge; it has never
10 asked for that \$3,500,000 to be returned?

11 A. No, but the effect of the agreement has
12 been extended considerably.

13 Q. It has also been curtailed considerably?

14 A. Curtailed in so far as the westbound
15 commodities are concerned and also curtailed in so far
16 as the level of rates from branch lines, Mr. Mauro.

17 Q. So that throughout that period from 1899
18 to the present date there has, in fact, existed this
19 bona fide agreement reached by two contracting parties
20 under which agreements, among other things, the C.P.R.
21 agreed to move grain and grain products at a specified
22 rate for an indefinite period of time?

23 A. From 1899 to the present? No, that
24 agreement was cancelled in 1925.

25 MR. FRAWLEY: It is the Crow's Nest Pass
26 Agreement that the witness says was cancelled in 1925.

27 MR. MAURO: Q. That is a conclusion of law,
28 isn't it, Mr. Roberts?

29 A. Well, sir, it is the effect of the 1925
30 amendment to the Railway Act.

Q. You recall when I cross-examined Mr.



1
2 Edsforth he made the same statement, and Mr. Edsforth
3 and I took a look at the facts surrounding that par-
4 ticular period of time, and I referred to the appeal
5 to the Governor in Council in 1925, at which time,
6 you recall, that the Committee, the Railway Committee,
7 had gone into this matter and they had determined that
8 the Crow level of rates on westbound commodities
9 should continue in suspension but that the Crow level
10 of rates on grain and grain products eastbound should
11 be reinstated or that the suspension should be lifted,
12 and the provinces appealed to the Governor in Council.
13 Mr. Symington was appearing for the province, and Mr.
14 Lafleur for the C.P.R., and I am now reading from
15 Volume 12 in my examination of Mr. Edsforth, at page
16 1643. I said to Mr. Edsforth:

17 "I now come to the portion I would like
18 your comment on:

19 "Now, I am not dealing with the grain
20 situation now; I am dealing with the situation
21 as it affects commodities other than grain and
22 grain products, because we are not asking for
23 any change in the conditions established in
24 1897 in regard to grain and grain products.
25 You will recollect that question was gone
26 into in 1922 when an investigation was made
27 before a special committee and the special
28 committee reported against any change in the
29 grain rates created in the arrangement of
30 1897, and simply recommended the suspension
of the Crow's Nest Pass Agreement in regard



1
2 to other commodities and it is in regard to
3 these other commodities that we are now making
4 our submission.'"

5 And I asked this question of Mr. Edsforth, and
6 I will ask it of you, Mr. Roberts: Do you agree with
7 the position of Mr. Lafleur at that time?

8 A. Well, Mr. Edsforth's answer to that was:
9 "Well, I don't exactly know what comments you want from
10 me."

11 Q. You told us, Mr. Roberts, that, in fact,
12 the Crow's Nest Agreement came to an end, and I say that
13 for there to be an agreement both parties must be of the
14 same mind, and I am trying to establish that both
15 parties were of the same mind and I have now read what
16 I suggest is the basis for my contention that the C.P.R.
17 was not either asking or desiring any variation in the
18 eastbound movement on grain and grain products?

19 A. Well, I can't agree with that, sir. You
20 have to have two parties to a contract.

21 Q. That is exactly my point, and I am saying
22 on the basis of these statements we established that the
23 C.P.R. had no intention and no desire to vary the agree-
24 ment on eastbound movement of grain but simply on the
25 westbound movement of these other commodities?

26 A. From and to the station that was involved
27 in 1899.

28 Q. In the same volume on page 1654 I quoted
29 to Mr. Edsforth a statement of the Minister of Railways
30 in presenting the new bill, and he says the following:

"Now, there are two things that Parliament



1
2 can do; it can insist on having the Crowsnest
3 agreement remain in force in its entirety or it
4 can remove it altogether from the statute books.
5 But a third and middle course might be taken,
6 and we are asking Parliament to remove from the
7 agreement that part relating to westbound traffic,
8 leaving to the prairies and the west for the
9 future all the benefit they have ever received,
and more, too, I think, on grain and flour."

10 Do you think it was the intention of Parliament, in view
11 of what Mr. Graham is quoted as having said, to rescind
12 the agreement, or was it rather the intention and fact
13 that the agreement was varied with the approval of both
14 sides, both parties to the agreement?

15 A. I wouldn't say that the agreement was
16 varied with the approval of both parties, sir.

17 Q. Now, Mr. Roberts, at page 14, about the
18 third paragraph down, starting with: "The first step . . ."

19 A. Yes, sir.

20 Q. "The first step taken in determining
21 a basis for a just and reasonable level of these
22 rates at the present time was to find the rela-
23 tionship between the Crow's Nest rates in effect
24 on September 1, 1899, and the then existing
25 8th class rates for similar distances."

26 Could you tell us what was the minimum weights on grain
27 in 1897, Mr. Roberts?

28 A. The tariff did not contain -- oh, yes, I
29 beg your pardon. The maximum and minimum weights:
30 the maximum weight will be the stencilled capacity of the



1
2 car; the minimum weight for standard 40,000-pound cars
3 will be 36,000 pounds. The minimum weight for
4 standard 60,000-pound cars will be 56,000 pounds.

5 Q. So 36,000 pounds and 56,000 pounds
6 depend on the capacity of the car?

7 A. Correct.

8 Q. What are the minimum weights today?

9 A. These are minimum weights on grain I
10 am giving to you. They vary, Mr. Mauro. The cars
11 with a marked capacity less than 100,000 pounds, the
12 minimum on wheat is 80,000 pounds; on cars with a
13 marked capacity of 100,000 pounds and over the minimum
14 is 115,000 pounds.

15 Q. Could you also tell us what the average
16 loading weight today would be?

17 A. About 110,000 pounds.

18 Q. Fifty-five tons?

19 A. Yes.

20 Q. Would it be fair to say that while the
21 rate level would remain fixed at the 1899 level, the
22 situation under the Crow agreement has materially
23 changed since the weight requirements have increased?

24 A. That is correct; but, of course, the same
25 situation applies to all commodities shipped by rail.
26 It is a fact that the average load per car on all com-
27 modities has increased considerably over the years.

28 Q. And you agree, you recall my reading to
29 Mr. Edsforth statements by Mr. Lannigan?

30 A. Yes.

Q. Before the Senate Committee in 1922, where



1
2 he, in discussing this with a member of parliament
3 from British Columbia, explained to him that if the
4 minimum weight is higher it is more profitable, it is
5 a better revenue situation for the railways.

6 A. Well, you are trying to keep ahead of
7 your costs in doing that.

8 Q. Now, we will turn to page 18, Mr. Roberts,
9 towards the end of the long paragraph where it says:

10 "A uniform increase of 100 per cent over
11 the statutory level of rates is proposed be-
12 cause this method retains the relationships
13 between shipping areas which have existed
14 from the introduction of the export grain
15 rates in Western Canada."

16 My question is: is it correct to state that these
17 relationships have existed from the introduction of
18 the export rates in Western Canada?

19 A. Well, Mr. Mauro, in that period during
20 and after the First World War there was a difference
21 in relationship when the rates were rising, yes, but
22 since then there has been a constant relationship.

23 Q. But there was a very marked different
24 relationship during the period of the Manitoba agree-
25 ment, was there not?

26 A. There was. The basis was lowered from
27 Manitoba and to a varying degree from Saskatchewan.

28 Q. And when the World War I increases were
29 put in, the Manitoba rates went up more than the
30 rates in Saskatchewan and Alberta.

A. Because they had received a greater



1
2 reduction.

3 Q. And when the branch line reductions were
4 made?

5 A. They were all reductions.

6 Q. But it must have changed the relation-
7 ship?

8 A. Yes.

9 Q. And when the rates from Vancouver were
10 introduced west of Maple Creek they could then ship west
11 at a reduced rate?

12 A. Correct, in 1927.

13 Q. And when the rates from Churchill were
14 introduced it put the people in Saskatchewan and north
15 in a better relationship than they formerly held?

16 A. They had another outlet.

17
18 (page 3545 follows)
19
20
21
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1
2 Q. So there have been variations in
3 this rate relationship?

4 A. Generally speaking, not since 1927,
5 Mr. Mauro.

6 Q. Well, I just was taking it from the
7 introduction of the export grain rates in western
8 Canada.

9 A. Certainly, on the main line, with Canadian
10 Pacific Railway, there hasn't been any change other
11 than those fluctuations in the war period.

12 Q. On page 19 of your precis, about the
13 fourth paragraph down:

14 "The movement of grain from western Canada
15 to export positions is the largest single
16 job the railways do. In 1958, it accounted
17 for over 40 per cent of the total freight
18 transportation service of Canadian Pacific
19 in western Canada and was over 26 per cent
20 of all freight transportation service
21 produced throughout the entire Canadian
22 Pacific system"

23 Now, according to your calculations, Mr.
24 Roberts, grain traffic is 40 per cent of the total
25 freight transportation service in western Canada and
26 is basic to the plant?

27 A. Yes, sir.

28 Q. The balance of 60 per cent is what?

29 A. It is not basic, sir. The plant in
30 western Canada is the prime reason for the maintenance.



1
2 The costs all flow from grain.

3 Q. So that the C.P.R. has this large
4 network in western Canada which has been established
5 and is being maintained to service 40 per cent of
6 its western traffic?

7 A. Certainly, it is the basic traffic.

8 Q. And the other 60 per cent is
9 incremental?

10 A. It is not, certainly, in the same
11 category as grain.

12 Q. Forty per cent is basic; but 60 per
13 cent is incremental?

14 A. That is right.

15 Q. And in the whole system, grain
16 represents 26 per cent?

17 A. Western Canadian grain, yes.

18 Q. Twenty-six per cent?

19 A. That is right.

20 Q. And the other 74 per cent, Mr. Roberts?

21 A. Well, there would be basic traffic in
22 other sections of Canada.

23 Q. Good. We thought we might now take
24 a short journey across Canada and have you, as best you
25 can, tell us what other traffics are basic to the
26 plant. And I think we would start off in the
27 Maritimes. Do you have any traffic in the Maritimes
28 that is basic to the plant?

29 A. Well, no. The products of the
30 Maritimes are pretty well generally distributed.

Q. So, your total plant investment in the



1
2 Maritimes is incremental?

3 A. Well, you cannot exactly put it that
4 way. It is built for all the traffic that it will
5 produce.

6 Q. Surely, Mr. Roberts, if you have a
7 capital investment in the whole of the Maritime
8 region it must be basic to that operation, and there
9 must be traffic that must be basic?

10 A. Well, there is potatoes. There is
11 import-export traffic. You cannot pin it down to
12 any particular one commodity, Mr. Mauro, the same
13 as you can with grain in the prairies.

14 Q. Now, we will move on to Quebec. Is
15 there any basic traffic in Quebec?

16 A. I would say merchandise traffic,
17 generally.

18 Q. And, in Ontario?

19 A. Ontario, the same thing.

20 Q. Merchandise traffic?

21 A. Yes, merchandise traffic; manufacturing.

22 Q. It is basic to that plant also?

23 A. Yes, it is the traffic that is moving.

24 Q. And, in British Columbia?

25 A. I do not think there is any basic
26 traffic in British Columbia. We have lumber; we have
27 newsprint; we have fruit.

28 Q. Did you put the lines into British
29 Columbia for any reason, or do you maintain them
30 for any particular reason?

A. For general flow of traffic.



1
2 Q. Lumber is a pretty big flow of
3 traffic; isn't it?

4 A. Oh, yes, and the revenue is quite
5 good from it, too, Mr. Mauro.

6 Q. Now, at page 20 in the large
7 paragraph, Mr. Roberts, there is this statement:

8 "Included in this figure was the stop-off
9 charges for terminal service at milling
10 points, the revenue from which amounted
11 to \$455,502."

12 Are the stop-off charges part of the Crow's
13 Nest agreement?

14 A. No, sir.

15 Q. And further on down, Mr. Roberts, in
16 that same paragraph:

17 "From the city of Regina to the lakehead,
18 the revenue per ton-mile at the proposed
19 rate of 40 cents per 100 lbs. would be
20 1.03 cents. The proposed 40 cent rate
21 from the Regina group would result in lower
22 ton mile revenues, from branch line points
23 in the group".

24 Now, I wondered if you could perhaps give
25 us the per ton-mile figure from Winnipeg and other
26 Manitoba points at the proposed rates the same as
27 you have here from the city of Regina? Not rightaway,
28 Mr. Roberts. You can get that later and submit it.

29 A. We can do that.
30



1
2 MR. SINCLAIR: We will give it to you
3 after the recess.

4 MR. MAURO: Thank you.

5 MR. MAURO: Q. I am advised that the
6 proposed rate from Winnipeg would be 28 cents.

7 A. That is correct.

8 Q. Or, 1.03 cents per ton mile.

9 A. That is correct.

10 Q. Your fully distributed costs are
11 stated to be 1 cent?

12 A. That is correct.

13 Q. Therefore, you are asking a rate
14 from Winnipeg that would provide 33 per cent more
15 than fully distributed cost?

16 A. The fully distributed cost is over-
17 all for the entire movement of the western grain;
18 I would not say the fully distributed cost from
19 Winnipeg.

20 Q. You do not want to be unfair to
21 Winnipeg, do you, Mr. Roberts? You would not ask
22 Winnipeg to pay 33 per cent more than the fully
23 distributed cost from Winnipeg?

24 A. Well, Mr. Mauro you would have -- I
25 don't know -- you would have to find the costs on
26 that. I could not answer that question. You see,
27 there is a principle of rate-making here. You start
28 with the rate of 14 cents from Winnipeg. That is
29 your key rate and naturally relating that to the
30 distance it does return, because of the service
performed, the incidence of the terminal service in



1
2 the rate, a higher level per ton mile than, say,
3 from Regina.

4 Q. But you surely are not asking in
5 principle that the shipper from Winnipeg should pay
6 not only fully distributed costs but, as in this
7 case, 33 per cent above fully distributed cost?

8 A. Mr. Mauro, we are asking for a return
9 of 1 cent a ton mile for the over-all movement.

10 Q. But you mentioned just a moment ago
11 that you would really have to cost the movement from
12 Winnipeg to Fort William to be complete?

13 A. The cost would differ from every
14 point, Mr. Mauro.

15 Q. Thank you, Mr. Roberts.

16 Now, my good friend asks me to request
17 whether or not you have in fact completed this
18 costing from Winnipeg to Fort William as yet?

19 A. I do not cost them, sir.

20 Q. As General Traffic Manager, you told
21 us yesterday you were very much involved in this in
22 September. Do you know whether such work was done
23 under your direction or guidance or with your
24 approval?

25 A. The Research Department of the Canadian
26 Pacific Railway conducted a cost study in connection
27 with the western grain, Mr. Mauro, and they submitted
28 their evidence.

29 Q. At the concluding portion of that
30 paragraph, Mr. Roberts:



1
2 "Even though this cost per ton-mile
3 does not give weight to the variable
4 passenger train service loss."

5 I now suggest to you, Mr. Roberts, that
6 you do in fact agree that your passenger train
7 service does not even return its out-of-pocket cost?

8 A. Well, we know passenger traffic is
9 a problem.

10 Q. I am not ---

11 A. And we are, as I understand it,
12 compiling figures for submission to the Commission
13 in connection with passenger traffic.

14 Q. I realize that, Mr. Roberts, and I
15 appreciate your present position. I am not trying
16 to get any detailed information from you at all.

17 Yesterday, you and I and your learned
18 counsel had a bit of exchange over individual
19 segments of traffic requiring to at least return the
20 variable cost of performing that service. And you
21 and I agreed that for "variable" another word would
22 be the minimum out-of-pocket cost of providing
23 the service itself. And, on page 20, you tell us
24 that the rate on grain does not give weight to the
25 variable passenger train service loss. I think
26 you and I can now admit that the passenger service
27 of the C.P.R. does not return its out-of-pocket
28 cost?

29 A. Over-all.

30 Q. Anyway you have used it on page 20.



1
2 A. That is what the evidence says.

3 Q. Page 21, Mr. Roberts.

4 At the beginning of the page -- perhaps
5 we might just clarify this sentence which appears:

6 "Another feature unique to this
7 movement which is not reflected in the
8 cost study is the delay which takes
9 place at the Lakehead and the Pacific
10 coast when the road haul transportation
11 service of the railways has been
12 completed"

13 When Mr. Stenason was presenting his cost
14 evidence, we noticed a fairly substantial allocation
15 of cost for car days. Do you remember that?

16 A. Yes.

17 Q. I wonder if you could tell us whether
18 in his car days allocation these delays at terminal
19 were not included?

20 MR. SINCLAIR: It is not delayed at the
21 terminal.

22 MR. MAURO: I do not quite understand this
23 portion.

24 A. Mr. Stenason's costs would be
25 associated with the actual movement of the traffic.
26 This is traffic that has arrived. We have
27 completed our transportation service. It has
28 arrived at destination. I would say that the
29 days that these cars are held awaiting unloading
30 into the terminal elevators was not included in his



1
2 cost figures.

3 Q. The days which these cars were held
4 at terminal -- just, Mr. Roberts, so I have it
5 clear -- what you have just said is that so far
6 as you understand Mr. Stenason's costing of these
7 days that the cars were held in terminal awaiting
8 unloading ---

9 A. Yes?

10 Q. --- were not included in Mr.
11 Stenason's cost study under the allocation of car
12 days?

13 A. Yes, they were included.

14 Q. Well then, I am very sorry to labour
15 this ---

16 THE CHAIRMAN: Have they applied, in your
17 view, to this segment of the traffic?

18 THE WITNESS: Yes, sir.

19 MR. MAURO: That is why I suggest here,
20 Mr. Chairman, -- on the top of page 21, it says:

21 "Another feature unique to this
22 movement which is not reflected in the
23 cost study ..."

24 The only thing I wanted, and as I say
25 I do not want to labour Mr. Roberts ---

26 Q. It appears from your
27 statement here that in the cost studies there is
28 not reflected the delay which takes place at the
29 Lakehead and at the Pacific coast.

30 A. No, this does not refer to the delay



1
2 in unloading the cars; the car days. It refers
3 to the fact that while those cars are delayed
4 we are not paid for the service performed. That
5 is what it boils down to.

6 Q. And one other question on that point.

7 I am also advised that during certain
8 months grain must be loaded within twenty-four
9 hours of spotting of the car versus forth-eight
10 hours for all other traffic? Is that correct?

11 A. I think it is an interior terminal
12 elevator under the Grain Act; that is all. But
13 what I am speaking of is where the cars are held
14 in large quantities at Fort William or Vancouver.

15 Q. I am trying to point out and as
16 accurately as I can picture to this Commission as
17 to the handling of grain, Mr. Roberts, and there
18 is this other feature of grain handling which does
19 not apply to any other grain traffic; namely,
20 country terminals. I do not think it is country
21 terminals. I think it is at the Government
22 elevators.

23 COMMISSIONER MANN: You might check that.

24 THE WITNESS: It is the Canada Grain Act.

25 MR. MAURO: It is country elevators,
26 but you can check that, Mr. Roberts?

27 A. Yes.

28 Q. I suggest to you this is a compensating
29 factor -- the fact that ---

30 A. No, sir.

Q. The fact that those cars have to be

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2 loaded within twenty-four hours as opposed to
3 forty-eight.

4 A. No, sir. When cars are held the
5 length of time as some of these cars are, Mr. Mauro.

6 COMMISSIONER BALCH: Would that include
7 handling before loading or after loading -- if
8 you store a bunch of empty cars before loading,
9 that would not be included?

10 THE WITNESS: No, sir.

11 THE CHAIRMAN: You have no trouble getting
12 cars loaded at the country elevators; it is getting
13 them unloaded at the terminal?

14 THE WITNESS: That is exactly it, sir, so
15 we can get them back to load more grain -- keep
16 them moving; keep the elevators clear.

17 Q. The point I wanted to make, Mr.
18 Chairman, was that there is this feature of the
19 handling of grain and I understand, as a matter
20 of fact, you have the right to refuse box cars
21 during certain months of the year if they cannot
22 guarantee that the car will be loaded in a
23 specified period of time; namely, twenty-four
24 hours?

25 A. I do not know that. I could look
26 it up, Mr. Mauro. I do not know that offhand.

27 MR. MAURO: Perhaps this would be a good
28 spot to adjourn.

29 THE CHAIRMAN: Yes, we will adjourn now.
30 ---Short recess.

(Page 3560 follows)



1
2 THE CHAIRMAN: All right, gentlemen.

3 MR. MAURO: Q. All right, Mr. Roberts.

4 Now, that question which I put to you concerning your
5 right to have an embargo on boxcars at country
6 elevator points, that applies, I am told, only when there
7 is congestion at the terminals?

8 A. At the terminal elevators.

9 Q. I wanted to clear that up for fear I
10 might mislead someone on that.

11 A. Yes, thank you.

12 Q. Now, Mr. Roberts, will you tell us what
13 the revenue per car of grain, Winnipeg to Fort William
14 -- I will quote a figure and you tell us if you think
15 it is right -- \$154?

16 A. That would be right, based on 55 tons.

17 Q. Could you tell us what the revenue per
18 car on household goods piggy-back, Winnipeg to Fort
19 William, is, and I will give you some figures.

20 A. I don't have the figure.

21 Q. I am now quoting from Tariff No. 37,
22 made effective March 9, 1959, 20,000 pounds, minimum
23 62 cents per hundred, and it worked out at \$124 per
24 car.

25 A. Well, we would accept that.

26 Q. So that that much maligned rate of 1897,
27 which returns presently \$154 a car from Winnipeg to
28 Fort William, stands up pretty well per car with the
29 rate that was introduced in March of 1959, which returns
30 \$124?

31 A. There is a vast difference, Mr. Mauro,



1
2 between handling ten tons and fifty-five tons; like-
3 wise, there is no switching on piggy-back, they deliver
4 it to us at our piggy-back yards..

5 Q. You have stated that the proposed rates
6 would also create the unsatisfactory relationship
7 which now exists between revenues and work done
8 in relation to grain; that is on page 21?

9 A. That is right.

10 Q. Now, I have given you the figures on
11 piggy-back and grain moving certain distances, and I
12 wonder if you could tell the Commission whether there
13 is more work involved in switching a car of grain than
14 a piggy-back car?

15 A. Well, I would say yes, sir.

16 Q. In switching the car there is more cost
17 involved in switching a car of grain?

18 A. Yes.

19 Q. Than in switching a piggy-back?

20 A. That is right, because we don't switch
21 piggy-back, it is delivered to us at our yard, pick
22 it right up there and pull it away, and they take it
23 away from our yard in Fort William.

24 Q. And there is no switching of it at all?

25 A. No terminal switching as such, up to a
26 private siding.

27 Q. How does it get onto the train?

28 A. Well, it is picked up in the yard, but not
29 in the same sense, Mr. Mauro, as you go out to a private
30 siding where the mill is located and with your switch
engine you pick it up, one car.



1
2 Q. You may switch a car of grain more often,
3 but my question was that in switching a piggy-back car
4 and switching a grain car, the costs involved in a
5 switching process would be identical?

6 A. Well, while we are getting the cost there
7 -- I couldn't answer that question.

8 Q. Is it any more work for the engine or the
9 crew in pulling a piggy-back as opposed to pulling
10 a car of grain?

11 A. I would say there is; you are pulling
12 55 tons versus 10 tons, so far as the engine is con-
cerned.

13 Q. And you are also pulling that 55 tons of
14 grain and receiving \$154 as opposed to \$124 for a
15 piggy-back car?

16 A. That is right.

17 Q. And the piggy-back rate, that is not a
18 statutory rate, that is voluntary?

19 A. It is a competitive rate.

20 Q. But you put it in yourself?

21 A. That is right.

22 Q. Now, under your proposed rate you have
23 told us that the work on grain is, in your opinion,
24 more than on this piggy-back, and as I have mentioned,
25 you are presently receiving \$154 to ship that car of
26 grain from Winnipeg to Fort William as opposed to
27 \$124 for a piggy-back, but under your proposed rates,
28 Mr. Roberts, you are asking the western Canadian farmer
29 to pay not \$154 as opposed to \$124, but \$308; that is
30 the price that you want the person to pay from Winnipeg



1
2 to Fort William?

3 A. You are picking on Winnipeg, Mr. Mauro,
4 but the situation is vastly different at places on
5 branch lines in Western Canada further west.

6 Q. You are not annoyed that I am referring
7 to Winnipeg and Manitoba?

8 A. No, but there is not that much grain as
9 such shipped from Winnipeg.

10 Q. There is not much grain shipped from
11 Winnipeg?

12 A. Not in relation to what is shipped from
13 west of there.

14 Q. Just dealing with the inconsiderable
15 amount that Manitoba produces ---

16 A. I didn't say Manitoba, I said Winnipeg.

17 Q. But I take it a fair amount of it goes
18 through Winnipeg?

19 A. It goes through Winnipeg but doesn't
20 originate at Winnipeg.

21 Q. All I am asking is about the rates from
22 Winnipeg to Fort William?

23 A. Yes.

24 Q. And you in your proposed rate, you want
25 now in revenue per car an increase from \$154 to \$308?

26 A. That is right.

27 Q. And that, in relation to \$124 for a
28 piggy-back car for the same mileage would, in your
29 opinion, be a fair return for the work done?

30 A. That is right.

Q. On page 22, Mr. Roberts, you mention that



1
2 domestic grain rates have increased by 90 per cent. I
3 would like to refer you to Exhibit 79-C, and you will
4 note, Mr. Roberts, that normal commodity rates have
5 increased from 1.32 cents in 1949 to 1.78 cents in 1950,
6 or an increase of less than 35 per cent for the same
7 mileage; a normal commodity from 1.32 cents a ton mile
8 to 1.78 cents per ton mile, or an increase of less than
9 35 per cent.

10 MR. SINCLAIR: We will accept that calcula-
11 tion without any check.

12 THE WITNESS: That is right.

13 MR. MAURO: Q. So that you are suggesting
14 that the domestic grain rates have risen 55 per cent
15 above the average increase?

16 A. Well, of course, this is an average;
17 this is an average, as you say.

18 Q. That would be a correct statement?

19 A. That is right, in comparison with the
20 average here.

21 Q. In comparison with the average increase
22 on normal commodity rates of less than 35 per cent,
23 domestic grain rates have risen 90 per cent?

24 A. That is right.

25 Q. Would this be an example of what the
26 provinces have frequently said, that it is a captive
27 traffic?

28 A. No, sir, it is lower, as a matter of
29 fact, than the level of rates paid in eastern Canada on
30 the same types of movement.

MR. SINCLAIR: What is lower?



1
2 THE WITNESS: The domestic mileage scale
3 on grain in Western Canada.

4 MR. MAURO: Q. How much domestic grain is
5 moving?

6 A. In Western Canada?

7 Q. Yes.

8 A. I don't know in terms of volume, Mr.
9 Mauro; it is about, maybe -- no, I don't know in terms
10 of volume.

11 Q. Now, Mr. Roberts, at the foot of page
12 22, reading at the very bottom of the page, "When a
13 comparison between rate levels on similar commodities
14 moving in Canada is not possible, as an alternative,
15 rates for the movement of grain and grain products
16 in contiguous areas have been examined as a guide."

17 The following table which is found on page
18 18 of the Canadian Pacific submission gives a compari-
19 son between the present rates for the movement of
20 grain from shipping points in the United States to
21 export positions at Duluth and Seattle, and the pro-
22 posed rates for the movement of western Canadian grain
23 for the comparable distances of Fort William and
24 Vancouver.

25 Now, having regard to the rates for movement
26 of grain from shipping points in the United States,
27 I thought it might be of interest to the Commission,
28 Mr. Roberts, to look at the present rates in both
29 Canada and the U.S. from the inception of the Crow's
30 Nest Pass rates, and compare it down to the present
rates.



1
2 I will be obtaining my figures, Mr. Roberts,
3 from a submission of the Canadian Pacific Railway
4 Company to the Royal Commission on Transportation,
5 which submission is dated October, 1949, and I under-
6 stand it was the submission to the Turgeon Royal
7 Commission. I am referring to page 89.

8 MR. SINCLAIR: We will accept the correctness
9 of the figures. You are talking about the appendix
10 on the front?

11 MR. MAURO: Yes.

12 MR. SINCLAIR: Page?

13 MR. MAURO: Page 89. I will be referring
14 to page 89 and page 100, Mr. Roberts.

15 MR. SINCLAIR: Pages 89 and 100. They are
16 in the same book?

17 MR. MAURO: Oh, yes, the same book.

18 Q. On page 89 we have a table that is
19 entitled, "A History of Rates on Wheat from Regina,
20 Saskatchewan to Fort William, Ontario, and from
21 Whately, Montana to Duluth, Minnesota during the
22 period 1898 to 1949."

23 In September of 1899 the price of wheat, Mr.
24 Roberts, according to your schedule on page 100, was
25 70 cents?

26 A. Correct.

27 Q. And the price of wheat in the United
28 States was 69 cents?

29 A. That is right.

30 Q. Your freight rate charge from Regina to
Fort William was 20 cents?



- 1
- 2 A. Yes.
- 3 Q. And the charge in the United States was
- 4 40 cents?
- 5 A. Correct.
- 6 Q. That was at the time that you entered
- 7 into the agreement?
- 8 A. That is right.
- 9 Q. The rates were double in the United
- 10 States to those in Canada?
- 11 A. That is right.
- 12 Q. On August 12, 1918, the price of wheat
- 13 in Canada rose to \$2.24 a bushel?
- 14 A. Yes.
- 15 Q. The price of wheat in the United
- 16 States to \$2.36 a bushel?
- 17 A. Correct.
- 18 Q. The freight charge from Regina to Fort
- 19 William was 24 cents?
- 20 A. Yes.
- 21 Q. And the rate in the United States 30
- 22 cents?
- 23 A. Correct.
- 24 Q. So that at that period your rates went
- 25 up 4 cents and the American dropped 10 cents?
- 26 A. That is right.
- 27 Q. September 13, 1920, the price of wheat
- 28 at Fort William was \$1.99?
- 29 A. Right.
- 30 Q. The price of wheat at Duluth was \$2.01?
- A. Correct.



1
2 Q. The freight rates in Canada from
3 Regina to Fort William had gone up another 8 cents to
4 $32\frac{1}{2}$ cents?

5 A. Correct.

6 Q. The price of freight in the United
7 States had returned to the 1899 level of 40 cents?

8 A. Correct.

9 Q. So that the Canadian rate is over 60
10 per cent higher in 1918, 60 per cent higher than the
11 1899 level, while the U.S. rate is at the same level?

12 A. Exactly.

13 Q. So that fact, that rates exist for a
14 long time, historically, Mr. Roberts, doesn't
15 of that simple fact make them bad rates?

16 A. Well, it is in relation to conditions
17 at the present time.

18 Q. We will reach the present time, too,
19 but at that time from 1899 to 1918 the American rate
20 had dropped 10 cents in one period, and by 1918 it
21 actually returned to the 1899 level?

22 A. Of course, there were fluctuations in
23 the Canadian rates, too.

24 Q. Yes, up; the fluctuations in the
25 Canadian rate went from 20 cents ---

26 A. Twenty cents down to 18 cents.

27 Q. That would be under the Manitoba Agree-
28 ment, not the Crow's Nest?

29 A. Yes, but they went down.

30 Q. And up to 24 cents?

A. Up to 24 cents.



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Q. And up to 32½ cents?

A. Yes, reflecting conditions in Canada.

Q. We are trying to compare them with the conditions in the United States.

A. The conditions are not entirely the same.

Q. Well, you raised that?

A. I didn't say that.

COMMISSIONER BALCH: That is why the rates in the United States are in such a mess there at the present time.

MR. MAURO: We will try to prove there are other reasons for the mess in the United States and Canada.

COMMISSIONER ANSCOMB: Would you repeat the prices of wheat over the years which you gave before?

MR. MAURO: In 1899 it was 70 cents, in 1918 \$2.24 and in 1920 \$1.99.

COMMISSIONER ANSCOMB: That is as far as you have gone so far?

MR. MAURO: Yes, Mr. Anscomb.

Q. Now, we come to another year; the price of wheat, Mr. Roberts, in 1931-1932 dropped from \$1.69 in the 1924-1925 period to 60 cents a bushel in 1931-1932?

A. That is right.

Q. Did the Canadian Pacific Railway make any reduction in their charges for moving this grain?

A. No, we didn't; our costs were remaining constant.

Q. Now, I will refer you to the Dominion



1
2 Bureau of Statistics statements of 1923 to 1958, and
3 at page 17 it states as follows:

4 "The total payroll of the Canadian
5 Pacific Railway in 1927 was \$117,488,000,"
6 and in 1933 your payroll had dropped to \$53,000,000.

7 A. That was commensurate with the traffic
8 we were handling.

9 Q. Did your costs remain the same? Did
10 the Government of Canada ask you to reduce or to change
11 the agreement of 1897 when the price of wheat dropped
12 to 50 cents, and, as we know, on certain grain products,
13 to 30 cents a bushel?

14 A. Not to my knowledge.

15 COMMISSIONER BALCH: What were the years?

16 MR. MAURO: 1931 and 1932.

17 COMMISSIONER BALCH: Those were the depression
18 years, with half the men working, for one thing. That
19 would lower the payroll.

20 MR. MAURO: Well, exactly; that is exactly
21 the point which I am making, Mr. Balch, that the costs
22 were very much changed but the price that the Canadian
23 Pacific Railway was receiving for its grain stayed
24 constant at 20 cents per hundred pounds, and the price
25 that the farmer was receiving in 1899 as opposed to
26 1932 was a far different story.

27
28
29
30
(Page 3575 follows)



1
2 MR. SINCLAIR: Is there a question
3 outstanding, Mr. Mauro?

4 MR. MAURO: No.

5 I was saying, Mr. Roberts, to your
6 knowledge, the Government, as one of the parties
7 to the agreement of 1899, did not attempt to change
8 the terms of the Crow's Nest agreement during the
9 depression years.

10 A. I don't know that any attempt was
11 made to do that, because I don't consider that
12 the unit costs as far as the Canadian Pacific
13 was concerned for handling the grain would be any
14 lower.

15 Q. Do you think that the unit costs
16 in the United States would have remained constant
17 with the C.P.R. during the depression years?

18 A. There are different conditions over
19 there.

20 Q. Because the price of grain in the
21 United States dropped and then the price of grain
22 dropped still further in 1932-33. It dropped
23 another 6 cents a bushel from 60 cents a bushel a
24 year before to 54 cents a bushel in 1932-33.

25 Could you tell the Commission whether the C.P.R.
26 dropped the price for moving grain from Fort
27 William?

28 A. Not at that time, Mr. Mauro.

29 Q. Did the Government, as a party to
30 the Crow's Nest Agreement, suggest that the terms
31 be varied due to different circumstances.



1
2 A. Well, the Crow's Nest Agreement was
3 not in effect in 1932.

4 Q. Did they, to your knowledge, ask for
5 any change in the rates set out in the Crow's Nest
6 Agreement due to changed circumstances?

7 MR.SINCLAIR: How could they if the
8 agreement wasn't in effect. If Parliament felt it
9 was necessary to take action by statute they could
10 have done so.

11 MR. MAURO: Q. Was there any request
12 made by the Government of Canada to reduce the grain
13 rates below the level of the Crow's Nest Agreement?

14 A. They could have done so themselves,
15 of course. They could have done so by statute,
16 as they did in 1925.

17 Q. So when you stated that the rates on
18 grain have not borne - that this traffic has not
19 borne any part of the increase in the cost of
20 transportation, you also meant to tell the Commission
21 that these rates were not adjusted downward with
22 any reduction in cost?

23 A. I don't know that there were any
24 reductions in cost, Mr. Mauro.

25 Q. And finally, Mr. Roberts, you have
26 referred to the situation in the United States and
27 you referred to the value of service principle.
28 I am now going to put a certain series of figures
29 on the record and you will then have an opportunity
30 of looking at them at your leisure and making any
statement you desire.



1
2 MR. SINCLAIR: Have you got the cost of
3 grain in 1958 and 1959?

4 MR. MAURO: Yes. We will go further than
5 that. I would like, as a matter of fact, to make
6 it complete, Mr. Sinclair, because I am very grateful
7 to my learned friend Mr. Sinclair, because I think
8 the records should be made complete on the price of
9 grain.

10 THE CHAIRMAN: Get them on the record.

11 MR. MAURO: It dropped to 54 cents in
12 1932-33; then it rose to 68 cents in 1934, 82
13 cents in 1935, 88 cents in 1936, \$1.23 cents
14 in 1937, \$1.32 cents in 1938. It dropped in
15 1939 to 80 cents a bushel, another 10 cent drop
16 in 1940 to 70 cents a bushel, and increased to
17 76 cents in 1941, increased in 1942 to 85 cents,
18 and for the first time in a long period, with the
19 two exceptions of 1937 and 1938, we finally get
20 back to a price up to the 1899 level of \$1.03 in
21 1943, \$1.37 in 1944, \$1.44 in 1945, \$1.75
22 in 1946 and 1947 and 1948, under the agreement.

23 THE CHAIRMAN: The post war.

24 MR. MAURO: The post war. And I have
25 to quote the Gazette for grain prices, but No. 1
26 Northern, January 22nd, \$1.66, No. 2 - \$1.63,
27 No. 3 Northern \$1.56.

28 I have one final question, trying to tie
29 up this situation that you have shown in relating
30 it to the American situation, Mr. Roberts.

We have examined a document published by



1
2 the Interstate Commerce Commission entitled: "Freight
3 Revenue and Wholesale Value at Destination of
4 Commodity Transported by Class I Railroads", and
5 this document has the following information at
6 page 13:

7 Average freight rate on wheat per ton,
8 \$6.13. Average value per ton at
9 destination, \$74.72. Freight as a
10 percentage of value, 8.2 per cent.

11 The Canadian Waybill Analysis ---

12 MR. SINCLAIR: What year is that for?

13 MR. MAURO: 1956 figures.

14 The Canadian Waybill Analysis for 1958
15 shows the average freight rate per ton on statutory
16 grain as \$4.23; the average price western wheat,
17 Fort William per ton, \$51.96.

18 MR. SINCLAIR: Where does that come from?
19 - the Waybill Analysis?

20 MR. MAURO: No. This is our figure.
21 That is taking the average price of 155 and 7/8ths
22 on grain.

23 MR. SINCLAIR: Does that include final
24 payments?

25 MR. MAURO: That is right. We have
26 estimated this to be the average price.

27 THE CHAIRMAN: What the farmer receives?

28 MR. MAURO: That is right, at Fort William.

29 COMMISSIONER PLATT: That could be checked
30 by official prices in the Canadian reports.



1
2 MR. MAURO: Freight has a percentage of
3 value in Canada of 8.1 per cent.

4 THE WITNESS: Of course, the United States
5 figure covers all grain by all class I railroads
6 in the United States. You are taking here the
7 revenue from grain in western Canada. There is
8 quite a difference.

9 Q. And there is a very large portion moving
10 under domestic rates in the United States?

11 A. Well, I don't know about that.

12 MR. MAURO: Thank you very much, Mr.
13 Roberts.

14 THE CHAIRMAN: Mr. Doherty?

15 MR. SINCLAIR: We don't know anything about
16 the figures my friend has just given, and we are
17 not undertaking to check these figures under any
18 circumstances, because the relationship of how
19 you calculate grain costs and grain revenues is
20 quite a subject; and, as we have made clear on
21 other occasions, sometimes we take very strong
22 exception to the way the I.C.C. get their figures
23 and what they do with them after they get them.

24 MR. MAURO: I thought it was an interesting
25 statistic.

26 THE CHAIRMAN: Mr. Doherty?

27 CROSS-EXAMINATION BY MR. DOHERTY:

28 Q. Mr. Roberts, on page 2 of your precis,
29 in the second full paragraph, you say:

30 "The authority of the Board extends



1
2 to all freight rates in Canada, with
3 the exception of the statutory rates
4 on grain and grain products moving
5 to export position in western Canada
6 which are removed from the jurisdiction
7 of the Board by Section 328(6) and (7)"

8 A. Yes.

9 Q. Going down to the second last full
10 paragraph, about the third last line, you say:

11 "...and also has the responsibility of
12 maintaining supervision over the many
13 individual rates which are constantly
14 being negotiated and published".

15 Now, am I correct in understanding in
16 this statement that there is a difference in
17 the supervision and control of the Board of Transport
18 Commissioners as to other rates; that is, there is
19 a direct control in some respects and indirect
20 control in other respects. Would you give me
21 the benefit of your knowledge by indicating, perhaps,
22 with respect to the class rates, the competitive
23 rates and the agreed charges -- just the measure of
24 control in each instance? I am not just too clear
25 on that.

26 A. Well, the class rates are the ceiling
27 rates. We would have to get the authority of
28 the Board to increase those rates prescribed by
29 the Board. Then the normal commodity rates and the
30



1
2 competitive rates and agreed charges, we
3 negotiate those, but we are subject to being taken
4 before the Board if someone considers they are
5 being unjustly treated or undue preference is being
6 given to anybody else.

7 Q. In volume 23 at page 3295, I believe
8 this time Mr. Sinclair is leading the evidence,
9 I believe, on commodity rates and he said:

10 "Do you have many shippers after your
11 negotiations filing complaints with the
12 Board?"

13 And your answer was:

14 "No, sir; we generally are able to
15 reach mutual agreement, through
16 negotiations, with our shippers, Mr.
17 Sinclair."

18 Now, what I am interested in knowing
19 is what figure, perhaps, had you in mind in the use
20 of the word "many" there? Could you give us any
21 figure?

22 A. Well, we are not before the Board
23 on too many occasions in direct complaints on
24 action taken by the railways. I would say last
25 year there were probably four, may be, if that,
26 in the year 1959.

27 Q. That would have reference to any
28 charge, commodity rates, agreed charges and
29 competitive rates?
30



1
2 A. Yes. There are very few of them.

3 Q. Would you suggest that the reason,
4 perhaps, for what we might call the small number
5 of complaints is that the shippers do not regard
6 the rates as unjust and unreasonable?

7 A. Well, they sit down with us and
8 we endeavour to negotiate with them a rate that
9 will move the traffic to their satisfaction.

10 Q. If you were to have a commodity rate
11 which we will say, for example, did not satisfy
12 a particular shipper, he felt that that was too
13 high a rate, then you could, of course, have an
14 agreed charge which might perhaps satisfy him?

15 A. Well, no. The mere fact of the
16 shipper not being satisfied doesn't mean we would
17 fix an agreed charge with him or enter into an
18 agreed charge with him. Competitive rates in
19 the open tariffs and agreed charges are just the
20 same, it is competition which sets the pace. We
21 don't give, the railways don't give bargain rates
22 in entering into agreed charges; we are meeting
23 competition.

24 Q. On page 3 you are speaking here
25 of the principle having to do with the setting of
26 rates, and you speak of the value of service
27 principle. In the first full paragraph on that
28 page you say:

29 "In all rates the value of service
30 to the shipper or consumer establishes



1
2 an upper limit, as indicated by
3 the ability of the traffic to pay
4 the proposed rate and still move at
5 optimum volume?

6 Now, as I understand the position that
7 the C.P.R. takes at this moment, you are not
8 suggesting that the grain shipper pay any additional
9 cost?

10 A. Any additional charges?

11 Q. Yes?

12 A. On his grain moving to the Lakehead
13 or Pacific coast or whatever it may be? - no,
14 sir.

15 Q. In other words, the rate for him
16 is to remain as it is at the present time?

17 A. Yes.

18 Q. In suggesting that rate, the reason
19 that you are not raising the rate to him is that
20 he cannot afford to pay a higher rate?

21 A. I would say that we don't consider
22 that the economy of the western farmer could stand
23 this increase at the moment.

24 Q. Would it be fair, then, to suggest
25 that this Crow's Nest rate satisfies your
26 requirements of this principle, that you have,
27 in fact, now a rate which is, as I see it, the
28 upper limit, that is, that the shipper has not
29 the ability to pay any higher rate, by your own
30 admission.



1
2 A. Yes, but all this is predicated
3 upon our receiving a fair and reasonable rate for
4 the work we perform. The fair and reasonable works
5 both ways, Mr. Doherty.

6 Q. But this is an upper limit, as I
7 understand it, isn't it?

8 A. I know, but there is also a floor.

9 Q. We will speak to that later.

10 A. Yes, but it is still there, that
11 while the farmer may not be able to pay it, we
12 cannot continue to handle it at less than cost.

13 Q. Then if we can go to the lower limit,
14 you say:

15 "The lower limit of the range of rates
16 is fixed by the need on the part of the
17 carrier to have rates at a level no
18 lower than the variable cost of providing
19 the service in respect to any individual
20 segment of traffic and which will, in
21 addition, make some fair contribution
22 to constant costs."

23 Now, am I correct in my understanding
24 that you interpret "fair contribution" in the case
25 of grain to mean full costs?

26 A. This is an overall evaluation. We
27 are dealing with traffic which we have said is
28 basic to the plants in western Canada, and we
29 should receive from that basic traffic full costs.

30 Q. I believe you have said that this



1
2 grain movement constitute about 26 per cent?

3 A. Forty per cent in western Canada.

4 Q. I am thinking of the overall picture.

5 A. Twenty-six per cent.

6 Q. I believe also in evidence yesterday
7 we were talking about class rates, and you estimated
8 they would contribute about 2 per cent.

9 A. Yes, by volume, something over 2
10 per cent - tons, that is.

11 Q. You regard class rates as returning
12 your constant costs?

13 A. Our full costs, yes.

14 Q. So we have 26 per cent on the grain
15 movement and 2 per cent on the class rates.

16 A. Yes.

17 Q. A total of 28 per cent?

18 A. Yes.

19 Q. So we are speaking about something
20 better than 70 per cent of the traffic moving at
21 something better than the grain traffic or class
22 rates?

23 A. Yes. Excuse me a minute now. The
24 figure of 2 per cent is tons and the 26 per cent ---

25 MR. SINCLAIR: We can accept that.

26 MR. DOHERTY: Q. It is something over
27 70 per cent of the balance of the traffic?

28 A. Yes.

29 Q. And that 70 per cent moves at the
30 commodity rates, agreed charges and the competitive
rates?



1
2 A. That is right.

3 Q. Now, in setting a rate such as an
4 agreed charge or a commodity rate or a competitive
5 rate, I think you suggested that the rate must
6 cover variable costs and make some contribution to
7 your total constant costs.

8 A. That is correct.

9 Q. So that it would be true, then,
10 to say that all commodity rates do not meet full
11 costs?

12 A. Some do and some don't.

13 Q. But they all do not?

14 A. They are governed by the conditions,
15 competitive conditions, under which they are
16 instituted.

17 Q. Then speaking of agreed charges,
18 would it be true also to say that all agreed charges
19 do not meet full costs?

20 A. That is correct, for the same reasons,
21 competition.

22 Q. And the same in the competitive rates?

23 A. Yes. A great majority of agreed
24 charges, I would say, meet that condition of
25 constant costs.

26 Q. But there is still a percentage that
27 does not?

28 A. There is still a percentage that does
29 not.
30



1
2 Q. Now, may I look at page 5 of your
3 precis, Mr. Roberts. You are dealing here with the
4 -- of course, you generally call them loading
5 characteristics -- you are speaking first of the
6 loadability.

7 Now, in the case of grain, is it correct
8 that the loadability insofar as grain is concerned
9 is a favourable situation; that you may load heavily,
10 as I understand it?

11 A. That is correct.

12 Q. So that factor of loading is in favour
13 of grain?

14 A. Yes.

15 Q. Favourable?

16 A. That is right.

17 Q. As to the type of equipment necessary,
18 I believe yesterday you said you required good
19 box cars?

20 A. That is quite right.

21 Q. But you would not regard that as special
22 equipment?

23 A. No. But, you have to keep your
24 equipment for the grain traffic in excellent shape.

25 Q. Surely you try to do that with all
26 C.P.R. equipment?

27 A. Yes, but you get your good equipment
28 out to western Canada when the grain is moving
29 heaviest. You make sure you have it available there.

30 Q. There would, of course, be a recognized
maintenance cost, but it would not be unusual having



1
2 in mind the maintenance cost of other types of
3 equipment?

4 Q. Would you regard the maintenance of
5 this type of equipment as a particularly heavy
6 burden?

7 A. Well, they can do a fair amount of
8 damage to a good box car, Mr. Doherty, when they put
9 the grain doors in.

10 COMMISSIONER BALCH: Might I speak as
11 one who has handled thousands of them. The grain
12 cars are definitely separated and kept apart when
13 we switch the car. We recognize grain cars as
14 a specific car. I mean to say the railway man
15 recognizes and he definitely would not put that into
16 a siding to load machinery or other kinds of freight.

17 The grain cars are separated so that they
18 are regonized as a special kind of car.

19 MR. DOHERTY: But not in the same sense
20 as a special car for piggy-back loading?

21 COMMISSIONER BALCH: No, but it is to
22 the extent that we definitely set them aside for
23 grain purposes.

24 MR. DOHERTY: Q. Well, with these types
25 of cars, would the same type of car be avilable for
26 use, say, for moving newsprint.

27 A. They are in that class, as Mr. Balch
28 says. The grain cars are first class, A-one cars,
29 and they have, generally speaking, painted on the
30 side of them, "This car must be used for general
merchandise, and grain and flour...". It specifies



1
2 that that is the type of thing -- and newsprint, also.

3 Q. Mr. Mauro suggests sugar.

4 So, taking you to another point, in using
5 those first class cars as you have described them
6 for the use of grain, you are not contaminating the
7 car in any respect in its use for grain? That does
8 not make it unusable for other classes of ---

9 MR. SINCLAIR: It does not pay enough money.
10 That is the only contamination.

11 MR. FRAWLEY: Contamination is a good word --
12 contaminated by the agreed charge.

13 COMMISSIONER BALCH: Might I say this that
14 the grain car definitely cannot have any leakage, we
15 will put it that way. I have seen cars come through
16 with a bit of a hole punched through and it leaks
17 out tons of grain over a distance.

18 So a grain car cannot have leakage. It
19 must not be dirty. And, in other words, it is
20 stenciled on the side, "Keep for grain". The
21 exact words, I do not know, but it is for grain,
22 definitely.

23 THE CHAIRMAN: Does it also suggest clean?

24 MR. DOHERTY: As I understand it, it is
25 a first class car, well-maintained, but not special
26 in the sense of being available only for a particular
27 use.

28 COMMISSIONER BALCH: To mention paper --
29 just one small nail in a paper car would ruin one of
30 those great big rolls of paper. A paper car has to
be perfect, too, the same as a grain car.



1
2 MR. DOHERTY: Q. That would also apply
3 to, as I understand it, a shipment of such things as
4 sugar, flour, and many other commodities. In other
5 words, grain is not unique, as I understand it, in
6 requiring a first class car?

7 A. Of course, we get different rates on
8 those other commodities, Mr. Doherty. We do not
9 get the Crow's Nest rates on newsprint.

10 Q. Yes, that may be. But the fact is
11 that the revenue from the Crow's Nest grain cars
12 may be equal or surpass the revenue from other types
13 of shipments?

14 A. I would say generally speaking you get
15 more revenue from these other types of traffic I
16 am speaking of.

17 Q. My point in asking that, Mr. Roberts,
18 was that as I would read these characteristics with
19 respect to loading and the type of equipment, it
20 would seem to me that grain would be in a reasonably
21 favourable position. In other words, it's ---

22 A. Well, it requires a box car but, as
23 I say, Mr. Doherty, it requires a good box car,
24 in good first class condition. And they have to
25 be out in western Canada and available when the grain
26 is moving.

27 Q. If you deem the loadability factor
28 to be favourable and the other factor not to be
29 unfavourable, these things in my mind would point
30 to a favourable rate?

A. Well, yes, a favourable rate at the



1
2 level we suggest.

3 Q. On page 6, Mr. Roberts, you are speaking
4 there of the old 9th class which applies to livestock.
5 Now, in the movement of livestock -- supposing a
6 person were shipping livestock, say, from Regina
7 to the Royal Winter Fair at Toronto, what type of
8 rate would that stock travel at? Would it be a
9 class rate? Would it be the same type of class rate,
or a commodity rate?

10 A. We have a commodity rate. We have
11 commodity rates from western Canada to eastern Canada.

12 Q. I am advised that this rate is 116.
13 Would that be correct?

14 A. CFA Tariff 116.

15 Q. Now, if that same movement of livestock
16 is coming back from the Royal Winter Fair to Regina,
would it come back on the same rate?

17 A. Well, Mr. Doherty, now you are getting
18 into a question of special rates which the railways
19 maintain and have for years of stock going to such
20 as the Royal Winter Fair in Toronto. And this was
21 done -- it started years ago -- in an endeavour to
22 improve the strain of the stock raised in western
23 Canada. There are certain concessions made to promote
24 the growth of the livestock in western Canada and
try to get us into mixed farming.

25 Q. So that it would come back -- my
26 information is, Mr. Roberts, that it would return
27 on a different rate, which would be perhaps 5-J or
28 class 33 or 40. Am I correctly informed in that?



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A. We will have to check it.

THE CHAIRMAN: Well, Mr. Roberts can check that, and we will adjourn now until 2:00 o'clock.

---Luncheon adjournment.



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2 ---On resuming at 2:00 p.m.

3 CROSS-EXAMINATION BY MR. DOHERTY (cont'd).

4 Q. Mr. Roberts, this morning at the
5 adjournment we were discussing the movement of
6 livestock to the Royal Winter Fair, and the
7 probable return and the rates under which they would
8 move, and I understand you have had a chance to look
9 at those rates and get some information on them.

10 A. That is right, Mr. Doherty; we have
11 the tariff, the railways have the tariff; it is
12 the Canadian Freight Association tariff No. 22-G,
13 CTC, 1592, which provides for the return movement
14 of livestock from exhibitions or fairs; it is still
15 the property of the exhibitors, and it provides
16 that the freight charges from the last point of
17 exhibition to the original point of shipment will
18 be 75 per cent of the full tariff rate, and the full
19 rate is a commodity rate which is provided for in
20 our Canadian Freight Association tariff 5-J.

21 Q. That was the information I had. Am
22 I still right in saying that there are two rates;
23 one moving east and another moving west?

24 A. A reduced rate westbound, that is
25 right, there are two rates.

26 Q. Then the situation with respect to,
27 say, breeding stock brought in from outside Canada,
28 that would move, again, under a different tariff,
29 would it not? My information is that it would
30 under tariff D.

31 A. Yes, that is right.



1
2 Q. The other question I want to ask on
3 livestock movements, Mr. Roberts, is would there be
4 an appreciable change in the amount of livestock
5 moving today as compared to, say, twenty years ago,
6 moving on rail lines?

7 A. Yes, there is quite an appreciable
8 change.

9 Q. Have you any idea what the amount,
10 percentage-wise, would be that is now moving as
11 compared to twenty years ago?

12 A. No, I don't have those figures.

13 Q. It would be a fairly low percentage,
14 though, would it not?

15 A. How do you mean?

16 Q. As I understand it, there has been
17 quite an erosion of livestock movement.

18 A. Yes, an erosion this way whereas the
19 farmer - take twenty years ago, the farmer took
20 his stock to the railway stock yards for loading by
21 rail, and he will come with his own truck and pick
22 up the livestock and take it and ship it by rail
23 from a central point.

24 Q. Has there been any movement on the
25 part of the railways to reclaim or regain some of
26 this?

27 A. Well, there is trucking, and we have
28 rates in effect in western Canada to endeavour to
29 meet the trucking situation.

30 Q. Have they been meeting it fairly
successfully?



1
2 A. I understand from the last figures
3 we had and the last report which I had that
4 there is a substantial amount of livestock moving
5 by rail again.

6 Q. And I would suggest that the methods
7 being used are some improvement in the rates, and
8 perhaps also some improvement in the method of
9 handling and the speed of handling?

10 A. Well, I don't know as to the service
11 angle, Mr. Doherty, I couldn't answer that, but we
12 did reduce our rates in western Canada.

13 Q. And you think that the reason for
14 that is that there have been these improvements?

15 A. Yes.

16 Q. Now, on page 7, Mr. Roberts, you
17 are speaking of packing requirements and these, I take
18 it, are packing requirements for movement by rail.

19 Now, are the packing requirements by rail
20 of such a nature that movements by rail would entail
21 expense over and above what would be required if
22 the movement went, say, by truck?

23 A. Well, trucks, of course, are a
24 different situation; they don't have any hard and
25 fast rules, as I know them, but they to a large
26 extent do adhere to the railways' classification in
27 the method of packing, but they don't rigidly adhere
28 to them; the provisions for packing requirements
29 are what we have developed through negotiations with
30 the trade, what is the general method of packing.

Q. Take now, for instance -- excuse me.



1
2 A. That is all right.

3 Q. I was thinking in the case of
4 movement of domestic furniture and household goods,
5 and the packing requirements that might be necessary
6 there that would need to be required by the other
7 carriers.

8 A. Well, the packing requirements - that
9 is, household goods that could or could not move from
10 one city to another?

11 Q. That is right.

12 A. By rail they require that the furniture
13 should be crated but the difficulty there with
14 respect to movement by rail is the fact that the
15 long distance household movers, the men come right
16 into your home and you have a personalized service;
17 the men come right into your home and they pack the
18 goods for you and put them in the van, they stay
19 with the van and they drive the van out to Vancouver
20 or Regina, or wherever you may be, and the same man
21 unloads it and ---

22 THE CHAIRMAN: Don't do too good a job for
23 the truckers.

24 THE WITNESS: No. I am giving Mr. Doherty
25 information, sir. It is a personalized service,
26 Mr. MacPherson, that is what I am saying.

27 MR. DOHERTY: Q. The point I was trying
28 to make, Mr. Roberts, is that a movement by van by
29 piggy-back, that arrangement, could be, then, a
30 less costly arrangement having in mind the fact it
wouldn't be necessary to crate the furniture, is



1
2 that the correct situation.

3 A. Well, this again is the vans that
4 the household goods are carried in, that is what you
5 refer to by piggy-back.

6 Q. I was wondering if the packing and
7 crating requirements of furniture are perhaps
8 instrumental in preventing this movement going by
9 rail by reason of the fact that the cost might be
higher.

10 A. No sir, I wouldn't say that; I would
11 say, as I did before to you, that it is a question
12 of personalized service with household goods.

13 Q. I was wondering, has the railway at
14 any time given any consideration to that, to giving
15 that type of personalized service in an effort to
16 regain some of this traffic, this type of arrangement.

17 A. That would mean we would have to
18 set up a service in each city on this continent.

19 You see, the household goods movers are
20 made up of - they form associations; the North
21 American Van Lines, that is just an association of
22 people in the moving business in Winnipeg and
23 Vancouver and Edmonton, and so on and so forth,
24 and it is the sort of organization which we would
have to set up, and there is not that much movement
of household goods in Canada, used household goods.

25 Q. And you do now, as I understand it,
26 have a pick up and delivery service of freight; there
27 is a pick up and delivery service of freight at
28 either end?
29
30



1
2 A. Yes.

3 Q. So, that is a partial step.

4 A. Yes, we handle - wherever the household
5 goods mover wants to use it we have the piggy-back
6 service available for him.

7 Q. Now, moving onto page 8 down in the
8 fourth paragraph, you are speaking, as I understand
9 it, of equalization, and you make the comment,

10 "The investigation was lengthy and in
11 November, 1953, preceding the completion,
12 the Board took an interim step toward
13 equalization by directing that the
14 class rates in eastern Canada should be
15 increased 10 per cent and the class
16 rates in western Canada reduced 5 per
17 cent."

18 Am I correct in my understanding that the
19 western rates were 15 per cent higher than eastern
20 rates?

21 A. No, no; that was just a step taken
22 by the Board, Mr. Doherty, preceding equalization
23 under the equalized class rates scale.

24 Q. That was an interim step?

25 A. Yes.

26 Q. Is there a further step of increasing
27 the eastern and reducing the western?

28 A. No, because the equalization scale
29 was put into effect on March 1, 1955.

30 Q. That is not a complete equalization?

A. Yes. Class rates.



1
2 Q. On page 9 in paragraph 1 you say:

3 "The majority of the traffic carried by the
4 railways requires rates lower than the class
5 rate to permit it to move freely."

6 Am I correct in my understanding that it is a competitive
7 situation?

8 A. No, not exactly, sir. We have normal
9 commodity rates that have been in effect in Western
10 Canada, for example, right through the years, on live-
11 stock, as you see on grain, and we have commodity
12 rates, normal commodity rates on fruit. We have them
13 on the traffic that requires them to move freely.
Those are for general application.

14 Q. And if the commodity rate didn't move
15 the traffic, then you would give consideration to
16 an agreed charge?

17 A. Not exactly, sir; we would have
18 to look into the aspects of each instance and
19 find out why it wasn't moving freely.
20
21

22 (Page 3601 follows)
23
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1
2 Q. Now, I am saying you would give considera-
3 tion -- I am not saying necessarily you would put an
4 agreed charge in, but you would give consideration to
5 that?

6 A. To the publication of a specific rate,
7 to meet the situation.

8 Q. Point to point rate?

9 A. Yes, commodity rate.

10 Q. On page 10, in the first full paragraph,
11 we are again speaking of, as I understand it, the
12 commodity rates, and you say:

13 "If a shipper is not satisfied, he can lodge
14 a complaint with the Board and obtain a ruling
15 as to what a just and reasonable rate should be."

16 Now, is it not true that if a complaint were
17 lodged the Board would deal only with the question as
18 to whether or not the rate was just and reasonable;
19 they wouldn't, for instance, look to see if the rate was
20 too high or too low?

21 A. Well, it would be a just and reasonable
22 rate. In arriving at a just and reasonable rate they
23 would consider if it was too high or too low.

24 Q. Mr. Roberts, I have been advised that
25 there is an agreed charge on -- this is on ferro-alloys
26 moving from Welland to Vancouver at a rate of \$1.27.
27 Am I correct in that?

28 A. What is the minimum carload weight?
29 One hundred thousand pounds?

30 Q. Yes.

A. That is \$1,270.



1
2 Q. That would be moving an approximate
3 mileage of what, Welland to Vancouver?

4 A. About 2,600 miles.

5 Q. Then the same movement, as I understand,
6 going to Regina, which would be a good deal less than
7 2,600 miles, is \$3.28?

8 A. Yes.

9 Q. It would appear to me that the Regina
10 rate on this agreed charge is about 258 per cent of the
11 rate to Vancouver.

12 A. Of course, Mr. Doherty, the rate to
13 Vancouver is in there because of competition. I don't
14 know whether it was import competition or movement by
15 water through the Panama Canal, but there is competition
16 in there, and the railways met that competition. The
17 rate and the revenue from that is making some contri-
18 bution to the railway. That is the reason it is in
19 there. If we didn't have that rate in there we
20 would lose that contribution.

21 Q. I think you wanted to make some con-
22 tribution to your variable costs?

23 A. Yes.

24 Q. So this rate of \$1.27 to Vancouver must
25 then cover all your variable costs?

26 A. Yes.

27 Q. And it might make some contribution to
28 your constant costs?

29 A. It does.

30 Q. Then the Regina rate of \$3.28 would
make some contribution?



1
2 A. That is not the point. We can forego
3 the traffic, but then the railways do not get any con-
4 tribution to their operating costs. It wouldn't
5 change the situation at Regina, Mr. Doherty. The
6 ferro-alloys will be moving from some other place
7 than Welland into Vancouver. The situation would
8 still be the same; we would be losing that contribution.

9 Q. I quite appreciate that \$3.28 in Regina
10 would be a considerable help?

11 A. Well, we are in here to get as much
12 money as we can for the railway to keep it operating
13 efficiently and to prevent any burden on any other
14 traffic if we can do it. If we decided we couldn't
15 afford to handle that traffic from Welland we would be
16 losing that much of a contribution towards our constant
17 costs.

18 Q. My point is that Regina is making such
19 a sizeable share as compared to the other?

20 A. No. The fact that we didn't have the
21 agreed charge wouldn't change that situation.

22 THE CHAIRMAN: What is the commodity?

23 MR. DOHERTY: Ferro-alloy.

24 Q. Just one other thing I wish to refer to,
25 Mr. Roberts. This, apparently, is a movement of
26 cigarettes, cigars and snuff from Hamilton going to
27 Vancouver. The rate is \$3.65 to Vancouver and \$4.97
28 to Regina. The Regina rate, according to my calcula-
29 tion, would be 136 per cent of the Vancouver rate.
30 Now, these carload weights are 44,000 in each case.
What would you say would be the reason for having that



1
2 lower rate to Vancouver?

3 A. Truck competition.

4 Q. It is not an export-import position at
5 all?

6 A. No.

7 MR. SINCLAIR: Was that Agreed Charge No.
8 177?

9 MR. DOHERTY: Yes.

10 COMMISSIONER ANSCOMB: Mr. Chairman, I wonder
11 if I could ask what is the rate on snuff to Victoria?

12 MR. DOHERTY: \$3.65 to Vancouver.

13 THE WITNESS: That agreed charge on the
14 cigarettes applies to Winnipeg, Calgary and Vancouver,
15 and the rate to Winnipeg, to meet highway competition
16 at Winnipeg and Calgary as well as to prevent -- also
17 in competition with rates to the United States. The
18 rate to Winnipeg is charged by the truckers, and the
19 Calgary and Vancouver rate represents combinations to
20 the United States.

21 MR. FRAWLEY: I think if you check it, Mr.
22 Roberts, you will find that the Edmonton rate is the
23 agreed charge to Calgary plus a class rate, class 70.

24 THE WITNESS: The agreed charge doesn't
25 apply to Edmonton.

26 MR. FRAWLEY: No, apparently not.

27 THE WITNESS: It does to Calgary.

28 MR. DOHERTY: Q. May we look briefly at
29 page 11? In the first full paragraph, in the last
30 sentence, you say:

"To enable Canadian producers to meet



1
2 foreign competition, the railways frequently make
3 competitive rates or agreed charges at the level
4 necessary to meet this foreign competition. . ."

5 Now, it would seem to me that we must
6 recognize that wheat also has a foreign competition
7 to meet. Is it not reasonable to suggest that the
8 same principle should apply to wheat? I am merely
9 suggesting that the movement of wheat is where we are
10 meeting foreign competition.

11 A. Not in Canada.

12 Q. It is still foreign competition abroad?

13 A. In other countries. Yes, we appreciate
14 that, Mr. Doherty, but, at the same time, none of these
15 instances you have mentioned here as illustrations is
16 in the same category as the statutory rates, which, as our
17 cost study shows, don't pay their variable costs.

18 Q. I think Mr. Mauro was suggesting this
19 morning that the statutory rates may be regarded in
20 the nature of an agreed charge, the same type of charge
21 you would have in meeting foreign competition?

22 A. No, we are not party to any contract
23 involving statutory rates.

24 Q. That is a matter of argument.

25 MR. SINCLAIR: We will argue it.

26 MR. DOHERTY: So will we.
27
28
29
30



1
2 Q. Can you perhaps briefly explain to me
3 what grain now moves under this 8th class, column 30?

4 A. Well, I do not know if there is any
5 grain moves on that rate -- I cannot answer that ques-
6 tion -- at the 8th class rate, but I would say to you
7 that it is still possible because of the minimum attached
8 to that rate. The minimum is only, I think, 40,000
9 pounds, and there could be carloads of seed grain,
10 low weight, bagged in accordance with the seed grain
11 regulations, and would only have 40,000 pounds in them,
12 and the charges based on the 8th class rate of 40,000
13 pounds which would work out lower than your grain
14 mileage scale at minimum 80,000 pounds.

15 Q. Would you suggest that this might be
16 bagged grain?

17 A. Seed grain, yes.

18 Q. On pages 14 and 15, Mr. Roberts, you
19 are speaking of the relationship between the Crow rate.
20 On page 14 in the third paragraph you speak of
21 finding a relationship between the Crow's Nest rate
22 in effect on September 1, 1899 and the then existing
23 8th class rates for similar distances.

24 On page 15, second paragraph, you are
25 talking about a percentage relationship, and the same
26 expression occurs later on in the page.

27 I wonder if we might just turn to Exhibit 45,
28 page 44, and Appendix B. This is the Crow's Nest
29 Agreement. I just thought we might look at the
30 language there together. This is clause 11 of the
Crow's Nest Agreement, Exhibit 45, page 44, where it



1
2 says:

3 "There shall be a reduction in the company's
4 present rates and tolls on grain and flour from
5 all points on its main line, branches or connec-
6 tions west of Fort William to Fort William and
7 Port Arthur and all points east, of 3 cents per
8 100 pounds."

9 Now, as I read that, Mr. Roberts, I see no reference
10 whatever to relationships. There is nothing there
11 that says that the reduction shall be such-and-such so
12 that it shall bear a particular relationship to any
13 particular class.

14 Now, would it -- it seems to me that the
15 Federal Government in negotiating the agreement were
16 interested in a level of rates, not a relationship?

17 A. Well, sir, that is exactly why we used
18 the percentage relationship -- to try to get a re-
19 lationship to govern at the present time. I mean, it
20 is just to get the rates back into what we considered
21 to be a just and reasonable level. That was the only
22 reason for that.

23 Q. I am suggesting it is not the relation-
24 ship that is important but the level itself?

25 A. We think what we have suggested is a
26 just and reasonable level.

27 Q. But these relationships -- they are also
28 disturbed by competitive rates and agreed charges?

29 A. Not in the class rate scale, sir.

30 Q. Well, how many commodities would you now
have that in 1960 bears the same percentage relationship



1
2 to the rates that they moved on back in 1899? It
3 would be the exceptional case?

4 A. Well, we are not suggesting, sir, the
5 relationship that existed in 1899.

6 Q. But you are trying to bring the Crow
7 back to that relationshop?

8 A. No, sir, not to the relationship that
9 existed in 1899.

10 MR. SINCLAIR: It is 40 per cent. It is
11 40 per cent of the 1899; 32 per cent of the 1927.

12 MR. DOHERTY: Q. Now, the domestic grain
13 rates are spoken of on page 22. As I understand it,
14 there had been a 19 per cent increase in the domestic
15 grain rates. Is that correct, Mr. Roberts?

16 A. Yes, sir, over all.

17 Q. What you are suggesting for Crow is
18 100 per cent increase?

19 A. Well, sir, the question of the domestic
20 grain mileage scale is still before the Board of
21 Transport Commissioners under the Equalization. It
22 is still in a state of flux.

23 Q. At the moment the proposed Crow rate
24 percentage would be higher than the -- the proposed
25 rate would be 100 per cent, whereas the domestic rate
26 is 90 per cent?

27 THE CHAIRMAN: The increase would be more?

28 MR. DOHERTY: Yes, the increase.

29 THE WITNESS: Well, the increase of 100 per
30 cent would be greater percentagewise, but I do not
think that that is quite a fair statement to make, Mr.



1
2 Doherty, because, as I say, the grain mileage scale --
3 the domestic grain mileage scale is still before the
4 Board for consideration under Equalization.

5 Q. That is true, but at the moment it
6 would be a higher increase?

7 A. At the moment, percentagewise.

8 Q. Percentagewise, yes.

9 Mr. Roberts, could you for a moment indulge with
10 me in what I hope is a rather academic question.

11 Supposing there were no restrictions whatsoever on the
12 rate level on the movement of grain, would it be
13 reasonable to assume that this might go then to the
14 domestic rate level? I hope this is an academic
15 question.

16 A. I would say it is, sir, very academic.

17 Q. If that should occur, would you anticipate
18 any loss of volume of traffic?

19 MR. SINCLAIR: Mr. Chairman and members of
20 the Commission, as far as I know the railways are cer-
21 tainly not suggesting that the rates be taken out of
22 the control of Parliament, and we are not suggesting
23 that the rates -- the levels paid by the farmers --
24 change. Now, we can go on and prophesy ---

25 THE CHAIRMAN: That makes the question very
26 academic.

27 MR. DOHERTY: Yes, Mr. Chairman, I admit
28 it is an academic question.

29 THE CHAIRMAN: This is not in issue.

30 MR. SINCLAIR: Right, sir.

MR. DOHERTY: Q. Mr. Roberts, on page 23,



1
2 where you are making comparisons between the American
3 line movement and Canadian movement and centres which
4 you have used for comparison are, as I see it, in
5 North Dakota and in Montana?

6 A. Yes, sir.

7 Q. It is my understanding that both in
8 North Dakota and Montana Spring wheat produced there
9 is used entirely on the domestic market. Now, if
10 that were so, it would seem that this comparison
11 should be with domestic rates. I was wondering if
12 you could supply, as an addition to your exhibit, the
13 domestic rates that would apply to these mileages?

14 A. These are the domestic rates, sir.

15 Q. I am thinking of the Canadian domestic
16 rates.

17 A. Oh!

18 Q. I am not asking for it now. I thought
19 you might perhaps file this.

20 MR. SINCLAIR: So I can understand it --
21 for comparable mileages, you want the Western Canadian
22 domestic grain rate?

23 MR. DOHERTY: Yes. Yesterday, when Mr.
24 Sinclair and Mr. Roberts were discussing this, there
25 was a difference of 100 miles. Perhaps I could
26 refer to the volume.

27 MR. SINCLAIR: The break point is about
28 900 miles, and where there is a general equality be-
29 tween the American and Canadian domestic rate -- we
30 will compare these. We will be glad to take the
approximate mileages and work it out.



1
2 MR. DOHERTY: That information is given on
3 page 3525, Volume 24, when you and Mr. Roberts were
4 discussing the break point. I was interested in the
5 exact mileage rates for each of the points.

6 MR. SINCLAIR: Do you want those eastbound
7 and westbound?

8 MR. DOHERTY: Yes, please.

9 MR. SINCLAIR: We will undertake to do that
10 and file it as an exhibit later.

11 MR. DOHERTY: Thank you, Mr. Roberts.

12 THE CHAIRMAN: Mr. Dickson?

13 CROSS-EXAMINATION BY MR. DICKSON:

14 Q. Thank you Mr. Chairman.

15 Mr. Roberts, prior to the luncheon adjourn-
16 ment there was some discussion about the stencilling
17 on cars, arising out of a question of Mr. Commissioner
18 Balch, and I understand that in response to a request
19 made you were in touch with your Montreal Office
20 during the luncheon adjournment and you were advised
21 that the stencilling used on cars prior to July 1959
22 read as follows:

23 "To be used exclusively for newsprint,
24 paper, flour and sugar, or high class mer-
25 chandise."

26 Is that correct?

27 A. That is correct.

28 Q. And since July 1959 the following stencilling
29 is used:

30 "This car for clean loading only."



1
2 I presume it does not change the effect of the original
3 stencil, but it is somewhat briefer?

4 A. That is true, but it is still a grade
5 of car -- a good type of car required for the movement.

6 Q. And it is used for grain and these
7 other products mentioned?

8 A. That is right.

9 Q. I am going to be brief, Mr. Roberts.
10 There are one or two questions I would like to ask you
11 on the matter of domestic movement.

12 A. Yes, sir.

13 Q. You indicated yesterday that the Duluth
14 rate for distances under 900 miles was left on the
15 Canadian domestic rate?

16 A. That is correct, yes.

17 Q. And you gave me the impression -- I
18 think you intended to give the impression that you
19 believe that this Duluth rate was a profitable rate?

20 A. Yes, sir.

21 Q. On a satisfactory level?

22 A. Yes, sir.

23 Q. Which would indicate that the domestic
24 rates in Canada are profitable rates?

25 A. That is correct.

26 Q. Very profitable?

27 A. Our rate reflects the conditions in each
28 country.

29 Q. And they met the variable costs?

30 A. Yes.

Q. And the constant costs?



1
2 A. Yes, sir.

3 Q. And something more, perhaps?

4 A. I do not know about that; I would not
5 say about that. They meet the constant costs, anyway,
6 Mr. Dickson.

7 Q. Now, in this memorandum of yours you
8 have excluded any consideration of movement at domestic
9 rates; is that correct?

10 A. That is correct, sir.

11 Q. And am I right in believing that,
12 similarly, on the other memoranda that have been pre-
13 pared, movements at domestic rates have not been taken
14 into account?

15 A. They have not.

16 Q. So that all this pile of material -- the
17 hundreds of pages -- takes into account only a portion
18 of the movement of grain and grain products?

19 A. Well, that is correct, Mr. Dickson. It
20 covers about 95 per cent of the movement, though.

21 Q. We will come to that, Mr. Roberts.

22 It is correct that this material deals with
23 what you allege to be unprofitable grain and grain
24 products movements?

25 A. That is correct.

26 Q. And ignores the movement of grain and
27 grain products which you admit to be profitable?

28 A. Well, the domestic grain rates are
29 approaching a fair and reasonable level.

30 Q. Well, they are a very reasonable level,
aren't they?



1
2 A. They are still under consideration be-
3 fore the Board under Equalization.

4 Q. But they are above what you are asking
5 for export grain?

6 A. That is correct, sir.

7 Q. Can you say the rate you are asking for
8 exports meets the variable cost at 100 per cent of
9 constant cost?

10 A. Yes, sir.

11 Q. And the domestic rates do that, plus
12 something?

13 A. The constant cost?

14 Q. Yes?

15 A. I would say they are about constant cost,
16 yes.

17 Q. Do you feel **that** is reasonably fair to
18 the western farmer to cost the unprofitable part of
19 his grain product movement, as you have done, and ignore
20 the profitable part?

21 A. Well, the statutory grain, Mr. Dickson,
22 very definitely does not meet the cost of hauling it,
23 nor does it ---

24 Q. Assuming that is correct, that is yet
25 to be established -- assuming that is correct, I ask
26 you again, is it fair in considering the overall move-
27 ment of grain and grain products to look at the
28 unprofitable movements and say we are not taking into
29 our accounting or cost figures or comparative figures
30 or all this material those movements of grain and
grain products which are profitable?



1
2 A. Well, Mr. Dickson, you are dealing
3 with two different types of movement. I appreciate
4 it is the same commodity.

5 Q. You are dealing with a farmer's commodity,
6 aren't you?

7 A. Yes, but they are two different types
8 of movement, sir.

9 Q. That is quite apparent.

10 Now, in your costing, and you may not be
11 able to answer me -- this is maybe a question for the
12 costing people -- but have you attributed any part of
13 the constant cost of this so-called plant that is basic
14 to movement at domestic rates?

15 A. I am sorry, sir.

16 Q. You were charging to statutory rate
17 grain a certain amount of cost in your costing study?

18 A. Yes, sir.

19 Q. And you are charging that statutory
20 grain with certain capital costs, certain running
21 costs, as it were, operating costs, variable costs?

22 A. Yes, sir, that is right.

23 Q. When you came to charge up the costs of
24 that plant, was a portion of it charged to the grain
25 moving at domestic rates or was it all charged to
26 grain moving at statutory rates?

27 A. I cannot answer that question, sir.

28 Q. What is the approximate volume of grain
29 per year which moves at domestic rates from Western
30 Canada, ton miles?

MR. SINCLAIR: Maybe you would like to go



1
2 on from there, Mr. Dickson.

3 MR. DICKSON: Q. There is one other figure
4 I would like, Mr. Roberts, and that is a similar figure
5 for Eastern Canada movement at domestic rates in
6 Eastern Canada.

7 MR. SINCLAIR: I do not know that we would
8 have that ton miles, but we will look. If we have not
9 got ton miles, would tons do?

10 MR. DICKSON: Well, if that is ----

11 MR. SINCLAIR: You want them as a ratio, I
12 take it?

13 MR. DICKSON: I prefer it ton miles.

14 MR. SINCLAIR: Maybe if we get tons to tons?

15 THE CHAIRMAN: You want the percentage,
16 anyway?

17 MR. SINCLAIR: Tons to tons, or tons to ton
18 miles?

19 MR. DICKSON: Well, both, if you have it.

20 MR. SINCLAIR: Well, we will look.

21 MR. DICKSON: Q. Just one final question
22 on this.

23 After giving effect to all specific commodity
24 movements, agreed charges, and the like, is the overall
25 level of domestic rates for grain movement in Eastern
26 Canada higher or lower than that in Western Canada?

27 A. They are higher. The rates themselves?

28 Q. After giving effect to agreed charges?

29 A. Yes, sir, they are higher.

30 Q. And specific commodity rate?

A. That is correct, sir.



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Q. You have costed this?

A. You are speaking of rates; not cost..

MR. SINCLAIR: You said rates.

MR. DICKSON: Q. Well, your answer is that
it is higher in the east for domestic rate movements?

A. The rates are on a higher level, sir.

Q. But giving effect to competitive rates
and agreed charges?

A. That is correct, sir.

(Page 3620 follows)



1
2 Q. At the bottom of page 19 of your
3 memorandum, Mr. Roberts, you seek to establish the
4 principle that a just and reasonable level of rates
5 for export grain must meet total cost, is that
6 right?

7 A. Because it is the basic traffic of the
8 plant.

9 Q. Because it is the basic traffic of
10 the plant?

11 A. Yes.

12 Q. And now, in the earlier part of your
13 memorandum, the first four pages, you detail under
14 the heading of "Principles of Railway Rate Making"
15 the various principles, and you conclude at the
16 bottom of page 3, "These are the basic principles
17 and considerations from which the freight rate
18 structure has evolved".

19 Is there anything in that statement of
20 principles with reference to this other principle
21 which you are suggesting, that traffic basic to the
22 plant should bear total cost.

23 A. It follows, in my opinion, Mr. Dickson,
24 from the size of the traffic you are handling and
25 the work you perform, and this particular segment
26 of traffic, the export grain in western Canada
27 constitutes 40 per cent of your work, 40 per cent
28 of the work performed in that plant. That is a
29 unique situation in my estimation.

30 Q. Is it a basic principle of rate
making, or is it not?



1
2 A. Well, it must be in order for you to
3 be able to operate your plant efficiently; that is,
4 that the basic products of your plant returns your
5 cost.

6 Q. But it is unique?

7 A. It is unique in size.

8 Q. Well then, do you accept this principle
9 which you mentioned on page 3, that traffic must
10 make some fair contribution to constant costs, or
11 do you reject that principle and adopt this principle,
12 that because it is basic that something else happens.

13 A. In certain circumstances, sir, yes;
14 we accept a fair contribution for constant costs.

15 Q. You are varying for this movement
16 what you have stated as a basic principle?

17 A. That is right.

18 Q. Mr. Roberts, has the percentage of
19 grain movement in relation to other movements
20 increased or declined through the years?

21 A. It varies, of course, but I couldn't
22 answer that question.

23 Q. What was it in 1899, what percentage
24 of your western movement was represented by grain?

25 A. I don't know, sir, I don't have
26 those figures. You mean in respect to service
27 performed, Mr. Dickson?

28 Q. Yes?

29 A. I Couldn't answer that question, Mr.
30 Dickson.

Q. Well, is it not fair to say that, say,



1
2 in the last twenty or thirty years, the amount of
3 service performed with respect to grain in relation
4 to the service performed with respect to the other
5 traffic has declined, percentage-wise?

6 A. Well, the movement of grain in
7 western Canada, it has varied over the years, but
8 it is fairly constant.

9 Q. The trend is downward, though, isn't
10 it?

11 A. In the production?

12 Q. Yes, the percentage of grain service
13 performed in relation to other services performed
14 has been downward? I suggest to you that in 1899
15 it was 60 per cent and that the material you filed
16 here would indicate at the present time it is 40
17 per cent?

18 A. I don't know, sir.

19 Q. Now, Mr. Roberts, what do you mean by
20 the word "plant" when you say "basic to the plant";
21 what do you mean by the word "plant"?

22 A. Well, these are the branch line
23 gathering systems that are maintained in western
24 Canada; they are the tracks which are at Transcona,
25 for example, which are held for the cars waiting
26 for unloading into the movement to the Lakehead,
27 and at the Lakehead itself. Those are all part of
28 the system of the plants.

29 Q. Those are all the tracks at Transcona?

30 A. No, not all the tracks.

Q. Part of the Transcona ones?



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A. Yes.

Q. Is it all the branch lines in Canada?

A. Well I think that the cost study showed there were about 28 hundred miles of branch lines.

Q. It is part of your branch lines?

A. Yes.

Q. And it is only part of Canada. In other words, the branch lines are located - are those in the western part of Canada?

A. That is right.

Q. Do you operate the west as a separate entity from the east, or part of your whole system as one.

A. Well, it is operated as one, but we like to see each portion of it at least carry its fair share of cost.

Q. It is all under the same company?

A. Yes.

Q. The same officers at the top?

A. That is right.

Q. Do you publish any financial statements as to the western operations contrasted with the eastern operations?

A. No sir.

Q. Not recently?

A. No.

Q. So, when we talk about plant we are talking about part of the branch lines and part of Canada and part of the main line, a percentage of the main line and part of the yards at Transcona, is



1
2 that what we are discussing?

3 A. It is the total plant.

4 Q. You call that a plant?

5 A. The total plant.

6 Q. The plant of the Canadian Pacific
7 Railway?

8 A. That is right.

9 Q. Or the plant of who?

10 A. Well, the 40 per cent is the plant
11 in western Canada and the 26 per cent is the total
12 plant.

13 Q. Would it be possible for you to
14 prepare a plan showing the lines which you are
15 regarding as the plant for the purposes of this
16 exercise.

17 A. I don't know if that would be
18 available, sir.

19 Q. If you did, you would have to show
20 it, I presume, in varying percentages of use, too.

21 A. Well, I think that would be something
22 that a cost man could probably answer better than I
23 could.

24 Q. And you would end up with a pretty funny
25 looking thing?

26 A. I don't know what the result would be.

27 Q. And yet you are prepared to say that
28 is the plant of the Canadian Pacific Railway for the
29 purposes of this Commission?

30 A. How do you mean that, sir?

Q. You are talking about basic to the plant?



1
2 A. Yes, basic to the plant.

3 Q. You are interpreting "plant" as meaning
4 a certain portion of branch lines, certain branch
5 lines in a certain area, your portion of your main
6 line, a portion of your main yards; all of that you
7 are masculating to form what you call a plant.

8 A. Well, sir, the plant would be covered
9 by the cost study.

10 Q. Have you ever used this word "plant"
11 in this sense before? If you said the words "our
12 plant" to somebody within your own company would
13 they know you were talking about what we are talking
14 about?

15 A. I would say so, yes sir, the railway
16 plant.

17 Q. By the railway plant you would mean
18 the grain plant?

19 A. No, no, sir.

20 Q. I am asking you is this the accepted
21 term, "plant", I mean, this particular - I can think
22 of several words which I don't want to use.

23 MR. SINCLAIR: Go ahead.

24 MR. DICKSON: Q. This particular grain
25 plant; if you say to somebody who is familiar with
26 what we are talking about, an employee of the C.P.R.,
27 that you must go look at the plant, would he know
28 what you were going to see?

29 A. The railway plant; it is a term, Mr.
30 Dickson, to describe your operations.

Q. Sure, your overall operations, not just



1
2 a little bit here and a little bit there.

3 A. It is the railway.

4 Q. Sure. And now, on page 22, Mr. Roberts,
5 about one-third of the way down the page, you say,

6 "Since 1952, the general increases by the
7 Board have been applied to these domestic
8 grain rates and the cumulative total
9 amounts to 90 per cent... and it is
10 anticipated that a further upward adjustment
11 should result."

12 Do you see that?

13 A. Yes.

14 Q. I may be stealing Mr. Frawley's thunder
15 but is this domestic traffic included in this 35
16 per cent shown on Exhibit 80, which has been bearing
17 73.3 per cent of the freight cost?

18 A. Yes.

19 Q. You would call that non-competitive
20 traffic?

21 A. That is right, sir, in the "all over"
22 traffic.

23 Q. And now, there was reference made
24 this morning, Mr. Roberts, to a price of wheat,
25 and this I am sure Commissioner Frawley knows more
26 about than we do, but these figures that were given,
27 I assume, would be the No. 1 northern price.
28 Assuming that is No. 1, it appears to be, then the
29 price of other movements, the other grades would be
30 downward from what these prices mentioned this
morning were.



1
2 A. That is right.

3 Q. Down from the six grades and then into
4 the feeds, and what have you.

5 A. Whatever the prices were.

6 Q. And the movement of No. 1 northern
7 is perhaps less than 2 per cent of the overall?

8 A. I don't know what the movement of
9 No. 1 was, it probably fluctuates from year to year,
10 Mr. Dickson.

11 Q. We have some figures which you may
12 wish to check which indicate that a five year average --

13 MR. SINCLAIR: We will accept the figures from
14 Mr. Dickson on those matters; we will not check
15 them, we will accept them.

16 MR. DICKSON: Q. The last year movement
17 of those different grades was very similar to the
18 five year average, and the No. 1 northern - there was
19 1.8 per cent moved as No. 1 northern; 31.9 as No. 2
20 and 27.5 as No. 3 and so on, and it would also be
21 true, I suppose, that some of this grain being
22 mentioned as moving, would be other types of grain,
23 oats, barley, rye.

24 A. That is right.

25 Q. Which would be priced below the wheat
26 price.

27 A. In accordance with what the market
28 showed.

29 Q. Your grain rates for these other
30 lower prices would be still so many cents per 100
lbs.



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A. The same rate applies to all grains.

Q. And to all grades?

A. Yes sir.

MR. DICKSON: That is all, thank you.

THE CHAIRMAN: Mr. Frawley, I think we
may as well break now.

---Short recess.

(Page 3635 follows)



1
2 Q. Mr. Roberts, would you look at page 4
3 of your precis at the top of the page, and at the bottom
4 of page 3 you say:

5 "This structure . . ."
6 That is the freight rate structure....

7 ". . . has contributed to the growth of in-
8 dustry in Canada, even though the structure
9 has been distorted by the fact that grain
10 and grain products moving to export positions
11 in Western Canada are transported at rates
12 which do not reflect the principles of rate-
13 making because they have remained at the
14 level fixed by statute many years ago."

15 So, Mr. Roberts, you are not asserting,
16 assuming that the grain rate situation, grain rate
17 level is a distortion -- assume that for the sake of
18 argument; that still has to be proved, as Mr. Doherty
19 said a moment ago -- assuming that, you are not sug-
20 gesting that is the only distortion in the freight rate
21 structure, are you?

22 A. I am, sir.

23 Q. I call your attention to page 88 of the
24 Lessard Study, which was one of the studies on Canada's
25 Economic Prospects, and I read this under the subtitle
26 "Railway Rates," page 88. You haven't got a copy of
27 that?

28 A. No.

29 Q. "Because of the cost structure of the
30 industry and the wide differences in the value
of service to shippers, railways have employed



1
2 an extreme form of differential charges, ranging
3 from as low as 0.5 cents a ton mile to as high
4 as 20 cents per ton mile."

5 This is "Transportation in Canada," the Lessard Study.
6 Will you look at page 88?

7 Now, you see where I am reading, the paragraph
8 beginning: "Because of the cost structure. . ."?
9 Carrying on with that paragraph:

10 "Minimum rates have been based on long-
11 run out-of-pocket costs and maximum rates on
12 the value of the services to the shipper.
13 Stating the principle in another way, the
14 industry's overhead costs have been collected
15 unequally from different types of traffic in
16 accordance with the demand for railway ser-
17 vice."

18 I put it to you that that is one of the things which
19 is causing an imbalance in the Canadian freight rate
20 structure?

21 A. No, I would say that the other rates which
22 are in the freight rate structure reflect the rates
23 necessary to move the traffic.

24 Q. Have you got a copy of Exhibit 52, the
25 Statement B used in the 17% Case? When you look at
26 Exhibit 52 and when you went before the Board, the
27 Transport Board, for an increase to enable you to
28 pay your wage award, and for no other reason, you
29 had to admit to the Board that you had to take 73 per
30 cent of that increase from 32 per cent of the revenue,
and that revenue was the class rates and the non-



1
2 competitive commodity rates, and I still put it to
3 you that if that didn't show and demonstrate the
4 serious situation in the Canadian freight rate struc-
5 ture?

6 A. No, I don't think that is correct. That
7 comparison is not correct, the comparison that you are
8 saying that we get 73.53 per cent of the total in-
9 crease from 32.03 per cent of the revenue. I don't
10 think that is a correct statement. You have traffic
11 moving at international an overhead rates from which
12 we have obtained the increases authorized by the
13 Interstate Commerce Commission and our own Board of
14 Transport Commissioners over the years.

15 Q. And from which you did not get one cent
16 to enable you to pay the wage award which immediately
17 preceded the 17% Case?

18 A. We had increases before that.

19 Q. Did you get any part of the moneys that
20 you needed and were reflected in that 17% increase,
21 did you get any portion of that from the Canadian
22 division of the international rates?

23 A. No, because they had been subjected to
24 increases authorized by the Interstate Commerce Com-
25 mission. As a matter of fact, Mr. Frawley, I think
26 that the proper -- as I said to you, the proper com-
27 parison is eliminating the international and overhead
28 traffic from revenues. Our revenues, sir, doing
29 that, would have represented the total, then taking
30 off the international overhead of 141.1 million, the
total would have been \$335.3 million. Now, the



1
2 through traffic in that exhibit represents 45.51 per
3 cent of the total.

4 Q. Does Exhibit 52 faithfully reflect
5 Canadian Pacific Exhibit 22 in the 17% Case?

6 A. Yes, it does, and which exhibit shows
7 that United States increases were applied to the
8 international import and export and related rates.

9 Q. And which exhibit shows that no part of
10 the increased wage bill was going to be met from the
11 Canadian portion of the international rates?

12 A. That is correct.

13 Q. And when I say the Canadian portion, I
14 am only talking about the Canadian portion or the
15 Canadian division of the international rate. When
16 you say it takes United States increases, it takes
17 increases which reflect the needs of the economy of
18 the United States?

19 A. As far as we are concerned, in order to
20 get our traffic into the United States, it reflects
21 those needs, the needs of our producers.

22 Q. That is as far as you are concerned,
23 but as far as the shipper is concerned, if we are on
24 the Canadian end of a movement of citrus fruits from
25 Florida to Alberta, the Canadian portion is from
26 Coutts or Northgate into Edmonton?

27 A. Yes.

28 Q. And the money you get is called a division?

29 A. That is correct.

30 Q. And I am putting it to you that the only
time that that rate which we are paying you to bring the



1
2 citrus fruits from Florida to Edmonton is increased
3 is to reflect higher wages, higher material costs in
4 the United States?

5 A. Otherwise the traffic wouldn't move.
6 Mr. Frawley, the same situation applies in the reverse
7 direction, in the lumber from British Columbia, fruit
8 from British Columbia, salt cake.

9 Q. And all I am talking about is the
10 imbalance in the Canadian freight rate structure.
11 If you turn to page 5 of your precis, you are compar-
12 ing the refrigerators and the gravel. My friend Mr.
13 Evans used to compare boots and shoes and the gravel.
14 It is the same thing, isn't it?

15 A. Yes.

16 Q. On page 5 you say the refrigerator is
17 something which can take a higher rate and still get
18 into the market. So to some extent the refrigerator
19 rates are subsidizing the gravel rates?

20 A. Well, it was what would move the traffic.
21 We make money on the gravel rates, too.

22 Q. You are not making full costs in moving
23 your gravel?

24 A. I don't know about that.

25 Q. I suggest to you if you look at the rates
26 and you test them with the test you put on the Crow's
27 Nest rates, full costs, I challenge you to find that
28 your sand and gravel are moving at fully distributed
29 costs. Do you think they are, really?

30 A. In some instances, yes.

Q. But the refrigerators are moving and



1
2 in some instances not, as to the gravel. In some
3 instances the gravel is not making fully distributed
4 costs?

5 A. That is true; but they are making a
6 contribution, otherwise it would inhibit the movement
and we would lose that.

7 Q. You want your variable costs plus some-
8 thing; you want your variable costs and your constant
9 costs; you want one hundred per cent of your full costs?

10 A. Yes.

11 Q. And that should be a starting place for
12 our discussion at least, perhaps for discussion of the
13 work before the Commission, because there are many rates
14 where you can't, in the proper operation of the railway,
get back full costs?

15 A. We get what we can to move the traffic.

16 Q. And if you get something over the variable
17 cost you say that is a contribution, that is something
18 you will put a rate in on that basis?

19 A. We get a contribution.

20 Q. But you do not seek the full costs to
21 establish a rate?

22 A. Well, then, you inhibit the movement.

23 Q. There is an internal subsidization in
the freight rate structure today?

24 A. The rates that are in there, Mr. Frawley,
25 are in there to move the traffic, to have the maximum
26 utilization of the railway.

27 Q. There is what is called rate discrimina-
28 tion in the freight rate structure?



1
2 A. In order to move the traffic. I don't
3 know that it is rate discrimination. It is the rate
4 that is necessary to move the traffic.

5 Q. I don't think that is a bad word in the
6 sense that we sometimes talk about unjust and unreason-
7 able.

8 A. It is pricing necessary to move the
9 traffic.

10 Q. And the higher rate of traffic where you
11 are getting many times your cost, that is what makes
12 the low rate traffic move where you can't get your fully
13 distributed costs?

14 A. Which pays the rate that is necessary
15 to move it.

16 Q. Let me read to you again what Mr. Lessard's
17 Study says, the same pages, 88 and 89. He reads there
18 at the bottom of page 88 from the position you took
19 before Mr. Justice Sloan, your company took before Mr.
20 Justice Sloan in 1952, and let me read that paragraph,
21 because you have to read the whole paragraph to get
22 the whole sense of it.

23 "Individual rates for railway transportation,
24 therefore, have had very little relationship to
25 the cost of performing individual services.
26 Only in the sum total of revenues and expenses
27 do rates and costs bear a reasonable relation-
28 ship to each other. But total railway costs
29 must be covered by total revenues; therefore
30 it follows that if the rates for certain ser-
vices are less than full costs, the rates for



1
2 other services must be above such costs; hence
3 the practice which is generally referred to
4 as internal subsidization. The result is that
5 a disproportionately large segment of railway
6 overhead cost is being recovered from high rated
7 commodities which are a small proportion of
8 the total railway freight traffic. For
9 example, the C.P.R. stated before Mr. Justice
10 Sloan that in 1952, 85 per cent of its over-
11 head costs were recovered from 30 per cent of
12 its traffic."

13 You, of course, will agree that Mr. Lessard
14 is only recording the information you placed before Mr.
15 Justice Sloan?

16 A. This is the statement.

17 Q. Would you have any idea what those figures
18 would be as of 1959, 85 per cent of the overhead costs
19 from 30 per cent of the traffic?

20 A. No, sir.

21 Q. You wouldn't have any idea of that?

22 A. No.

23 Q. Have you a figure for 1958?

24 A. No, sir.

25 Q. For 1957?

26 A. No, sir.

27 Q. It wouldn't be any better than 1952?

28 A. I wouldn't be able to say, Mr. Frawley.

29 Q. And that is the same kind of picture that
30 Exhibit 52 discloses when you come into a revenue case?

31 A. No, it wouldn't, because you have the



1
2 international overhead in there, and also you have the
3 statutory and related rates on grain traffic from which
4 you don't get any increase.

5 Q. The fact that you can't get any part of
6 your increase to Canadian costs from the Canadian
7 division of the international rate, you say that isn't
8 contributing to the imbalance in the freight rate
9 structure?

10 A. The increases we get in international
11 rates are always contributing to our costs; they must
12 make some contribution.

13 Q. There is a great degree of disparity
14 in the Canadian freight rate structure?

15 A. The grain rate is the only one.

16 Q. Let's look at something ----

17 MR. SINCLAIR: Mr. Chairman, if it will
18 assist on behalf of Canadian Pacific we will admit right
19 now that there are differential prices, that if Mr.
20 Frawley wants to call it internal subsidization, we
21 will admit that. We will also admit the words "cross-
22 subsidization" within the rate structure; we will also
23 admit there are varying contributions to overheads.

24 MR. FRAWLEY: It always looks better if
25 you get a few illustrations in to dress it up and make
26 a point.

27 Q. Mr. Roberts, would you look at the
28 Exhibit 86 which I have shown you, and let's look at
29 some of those rates. Look at page 4 and look at
30 aluminum gas meters from Milton, Ontario, to Edmonton.
I am only asking you to answer me on the basis that the



1
2 rates quoted here are correct. Aluminum gas meters
3 move from Milton, Ontario, to Edmonton at \$6.48, and
4 they return you a ton-mile revenue of 6.285 cents, and
5 you will notice that is a straight class rate.

6 A. Yes, 20,000 pounds.

7 Q. That is certainly a value of service?

8 A. I don't know how many carloads would
9 move at that time.

10 Q. After all, we are all in the gas business
11 to some extent and we, I suppose, need gas meters?

12 A. Yes.

13 Q. And we move them from Milton, Ontario.
14 That is a nice neighbourly thing, I suppose?

15 A. That is right.

16 Q. And that is the first step in internal
17 subsidization, I put it to you?

18 A. That is right.

19 Q. And then we jump over to page 7 and look
20 at the zinc bullion moving from Flin Flon, Manitoba,
21 to Quebec City.

22 MR. SINCLAIR: C.N.R.

23 MR. FRAWLEY: Q. Let's look at the rates
24 because, after all, you are sharing the business with
25 Canadian National.

26 MR. SINCLAIR: I wish we were.

27 MR. FRAWLEY: No, not that rate.

28 Q. Look at that, Mr. Roberts, and you will
29 find that that zinc bullion moves from Flin Flon with
30 a return to Canadian National of $9\frac{1}{2}$ tenths of a cent,
 $9\frac{1}{2}$ mills per ton mile?



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2 A. That is right, for a distance of 2,077
3 miles.

4 Q. That is right.

5 A. Which is about double what we get from
6 the Crow's Nest rates at the present time.

7 Q. If we stay here for two weeks, every
8 time you get a chance you will tell me about the Crow's
9 Nest rates, and I expect that. But I would like to take
10 you back to the aluminum gas meters, and I suggest,
11 having got that 6 cents per ton mile then you are able
12 to send off the zinc bullion to Quebec at $9\frac{1}{2}$ -tenths of
13 a cent?

14 A. I think each one moves at the rate that
15 is necessary to move the traffic.

16 Q. I don't think you are charging any more
17 or less than you have to in every case, but that is
18 the Canadian freight rate structure?

19 A. Yes.

20 Q. But all you think is wrong with it is
21 just give us some more money, say you, to the Canadian
22 Government?

23 A. The other rates reflect the condition
24 to move the traffic. We are not talking about the
25 same thing ----

26 Q. I am not suggesting anything to the
27 contrary. Let's look at some other rates that operate
28 very nicely on a ton mile basis, and look at page 4
29 for steel sink cabinets moving from North Portal,
30 Saskatchewan, the origin being Canton, Ohio, and that
rate is 8.2 cents per ton mile?



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A. That is right.

Q. And that also is a straight class rate?

A. Yes, with a minimum of 14,000 pounds.

Q. The highest rate in the book?

A. Fourteen thousand pounds.

Q. No higher rate?

A. That is right.

Q. And the electric ranges move from Mayfield, Kentucky, via North Portal, when it gets to the border you then assess a full class rate on that?

A. That is correct, in that instance.

Q. There is an interesting situation there which the Commission might be interested in: a new rate starts at the border?

A. In some instances.

Q. Well, on this one right there?

A. In this case, yes.

Q. Although the electric range originated in Mayfield, Kentucky, and required a good deal of transportation before it got to the border at Saskatchewan, that transportation was completely ignored and you started a new rate with a new rate of taper at North Portal and ran it through on the class rate basis?

A. That is the way to move the traffic.

Q. Yes, of course, that is the way to move the traffic. It was regarded as if it was manufactured in North Portal, Saskatchewan?

A. That is right.

Q. It was treated under the class rate



1
2 structure that we now have to contend with. It was
3 treated as if it originated there, and then you made a
4 brand new start at Mile One at North Portal, Saskatche-
5 wan?

6 A. They took the rate from North Portal,
7 Saskatchewan, whatever the rate might be.

8 Q. And that is exactly the way agricultural
9 machinery moves from the American origins?

10 A. I believe there are some through rates.

11 Q. Just lately, but for a long time I put
12 it to you that the rates on farm machinery coming in
13 from American origins moved on a commodity rate to the
14 border and on a full class rate from the border points?

15 A. That is right.

16 Q. And to that extent it would be quite
17 comparable to the items on page 4 of this exhibit, the
18 steel sink cabinets, originating at Canton, Ohio, the
19 electric ranges originating at Mayfield, Kentucky,
20 and then there is another item of refrigerators from
21 Connersville, Indiana, and Greenville, Michigan?

22 A. I don't know at the present time. I
23 understand there are commodity rates into Western Canada
24 on agricultural implements.

25 Q. And, as a matter of fact, in due course
26 of time there may be competitive rates?

27 A. It may be, sir.

28 Q. And after you have a competitive rate
29 and you have displaced the class rate on agricultural
30 implements and you substitute an agreed charge or com-
petitive rate, then you will not be able to put any



1
2 horizontal percentage increase which the Board may
3 grant you on later occasions?

4 A. No, sir, you are not correct in that
5 statement.

6 Q. No?

7 A. No, we would apply an increase.

8 Q. You would apply an increase?

9 A. Yes, sir. I don't know if we would have
10 an agreed charge from the border, but certainly on the
11 competitive rate we would apply the increase.

12 Q. And it would remain there just as long as
13 the force of competition allowed you to leave it there?

14 A. If we were forced we would take it off.

15 Q. I am challenging your suggestion that
16 you put your horizontal percentage increases authorized
17 by the Board, you put those on the competitive rate?

18 A. We do, sir.

19 Q. I put it to you that many times you have
20 put them on and within a week or two weeks there has
21 been sufficient attrition and you have had to take them
22 off?

23 A. We have to move according to the com-
24 petitive positions, Mr. Frawley.

25 Q. I don't think you are not a good railway
26 operator, with all deference to my friends in the
27 Canadian National. I think you and Mr. Edsforth are
28 excellent traffic executives, and I am quite certain
29 you are not failing to put an increase on whenever you
30 can. But the force of competition factors are such
that sometimes you have planned to put an increase on



1
2 a competitive rate and find you cannot put it on?

3 A. Well, not planned to. If the com-
4 petition necessitates us taking any part of it off,
5 we are forced to do it.

6 Q. But sometimes you intend to put it on,
7 and when you are getting to the point where the com-
8 petition situation is such, you just skip it?

9 A. On occasions, yes.

10 Q. On occasions: I knew you would agree
11 with that. I would like you to look at two or three
12 more, and there is no point in looking at them all. I
13 would just like you to look at two or three more of
14 these rates on Exhibit 86, and I will ask you to look
15 on the last page, page 11, and I would like you to look
16 at the rate on grain for export from Port Arthur to
17 Halifax, which returns you .632, and if I recall, your
18 Crow's Nest export rates return you about .5. We
19 used to hear for years it was .5; it is somewhere
20 in that order.

21 A. For 1700 miles, I think it would be
22 less than .5. Yes, it would be.

23 Q. It was a little less than that, but it
24 is in that area?

25 A. That is correct.

26 Q. Now, there is no statutory compulsion
27 here to keep that rate to the point where it only
28 returns you .632 cents. There is just the equally
29 strong compulsion of economic conditions and the desire
30 to foster the Canadian ports?

31 A. Well, that is true in so far as the export



1
2 rates on grain are concerned, but I don't believe we
3 handle ----

4 MR. SINCLAIR: Port Arthur to Halifax --
5 that is C.N.R. We can't even get in on that.

6 MR. FRAWLEY: You would like some of that
7 business?

8 MR. SINCLAIR: It all depends how much it
9 costs us.

10 MR. FRAWLEY: Oh, no; it all depends on what
11 you have to take for it.

12 THE WITNESS: I don't think we have a route
13 to Halifax.

14 MR. FRAWLEY: Q. Well, you run into Halifax
15 over the D.A.R.?

16 A. Yes, in great bulk.

17 Q. Is the Canadian National the only people
18 who get anything into Halifax? It may be so; I don't
19 know.

20 A. Well, the export grain Canadian Pacific
21 normally handles to West Saint John.

22 Q. Would you say the same thing about the
23 rate on barley, corn, oats, rye, wheat, flour from
24 Port Colborne to Halifax which returns you again .655
25 cents?

26 A. Well, again, that is Canadian National.

27 Q. Yes, that is true, but if you could get
28 in there you would carry it at that same rate?

29 A. Well, if we had had a line we probably
30 would have had the rate all right. These rates,
as we have said -- we have taken a good look at these



1
2 export grain rates in Eastern Canada.

3 Q. I wonder how many times, standing in
4 that box, you have told me and others, "We are looking at
5 them. We are certainly looking at these low rates"?
6 That has been a pretty continuous attitude on your
7 part, hasn't it -- a truthful one?

8 A. I think you will find when we make state-
9 ments like that, we have carried out our promises.

10 Q. I will put it this way: You meant
11 you were looking at them, but, notwithstanding all the
12 looking, you still have to carry it to Halifax for
13 just something of the Crow order; that is so, isn't
14 it?

15 A. We don't know; we don't have to.

16 Q. As a matter of fact, if you had a
17 route in, as my friend Mr. Sinclair says you don't --
18 but if you tell me you had a line in there you would
19 carry it?

20 A. If we had the line in years ago we
21 would have had the traffic.

22 Q. I suggest that if you had a line in
23 there you would have had your rate solicitors out
24 there asking for the business?

25 A. We are talking about something theoreti-
26 cal, Mr. Frawley. Let's deal with the traffic we
27 are handling to West Saint John.

28 Q. Have you a service to Port Colborne,
29 Ontario?

30 A. No, C.N.R. The T. H. & B., but
we don't ---



- 1
- 2 Q. We don't have any interest in T. H. & B.?
- 3 A. No.
- 4 Q. If it was offered to you at Port Colborne
- 5 to take to Halifax, would you say: "No, we are not going
- 6 to take it"?
- 7 A. I don't believe we have a route, Mr.
- 8 Frawley.
- 9 Q. Now, you take zinc fume from Tadanac
- 10 to Montreal. There is no doubt about who takes that.
- 11 A. What page?
- 12 Q. Page 8. That is yours, isn't it?
- 13 A. Yes, that is right.
- 14 Q. So you take zinc fume from Tadanac to
- 15 Montreal for \$1.24 a hundred, and it returns you 9/10ths
- 16 of a cent per ton mile?
- 17 A. The Crow's Nest rate, if it was extended
- 18 to that distance, would be an awful lot lower.

19

20

21 (Page 3660 follows)

22

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1
2 Q. And does that rate of 9/10ths of a
3 cent per ton mile warrant you fully distributed costs?

4 A. I don't know, sir.

5 Q. You can't tell what the relationship
6 of revenue to costs is for that rate?

7 A. No sir.

8 COMMISSIONER MANN: Mr. Frawley, would you
9 mind if I asked a question. Where are these shown
10 on this sheet? I notice they are dated January 8th,
11 1960, and are these at the 17 or the 10 per cent
12 level?

13 MR. FRAWLEY: Certainly if I knew, sir,
14 I would tell you. All I can do is endeavour to
15 find out. I am not sure whether they give effect
16 to the reduction of points in the rates; I am not
17 sure.

18 Q. Now, let me now look at another aspect of
19 this situation, and we will keep right on with
20 something that was discussed this afternoon by my
21 friend Mr. Doherty.

22 I would like to show you, Mr. Roberts, a
23 statement which compares the agreed charges to
24 Vancouver with the so-called normal rates, or sometimes
25 called competitive rates, to Regina and Saskatoon,
26 and I really should apologize to the Commission, I
27 will order another two dozen copies or so of this
28 statement so that they may be put around.

29 Now, that will be Exhibit No. ---

30 MR. COOPER: That will be Exhibit No. 89.



1
2 ---EXHIBIT NO. 89: Statement comparing agreed
3 charges on freight rates from
4 eastern Canada to Vancouver,
5 with rates to Regina and
6 Saskatoon on the same commodities,
7 as of December 29th, 1959.

8
9 MR. FRAWLEY: Q. Now, if you will look at
10 that Exhibit 89. Exhibit 89 is a statement comparing
11 the agreed charges on freight rates from eastern
12 Canada to Vancouver, with rates to Regina and
13 Saskatoon on the same commodities, as of December 29th,
14 1959. It is the same statement as Exhibit 81 that
15 was put in a day or so ago, except that Exhibit 81
16 is a statement comparing agreed charges on freight
17 rates from eastern Canada to Vancouver with rates
18 to Calgary and Edmonton on the same commodities, and
19 it is dated December 29th, 1959, and I want to
20 discuss Exhibit 81 with you, but at the moment I just
21 want to discuss just one or two things about the
22 rate to Regina and Saskatoon.

23
24 Would you look at agreed charge No. 177,
25 which is on the second page, and it covers cigarettes,
26 cigars and snuff, etcetera, from Hamilton, Montreal,
27 Toronto, Quebec City and Granby. Now, if you will
28 look at these rates you will find that - just taking
29 it from Hamilton, just using the one origin, namely,
30 Hamilton, you will find that the rate under that
31 agreed charge No. 177 to Vancouver is \$3.65, and on
32 the same agreed charge the rate is \$4.70 to Calgary.
33 Is that truck competition that makes that rate?

34 A. Which column? Calgary?

35 Q. You take a few minutes to look at it.



1
2 If this is Exhibit 89, Calgary and Edmonton isn't
3 in it, it is just Regina and Saskatoon. Perhaps
4 it could be handled in this way; if you had Exhibit
5 81 beside you you could look at that, because it
6 is the same kind of statement and it will show you
7 the rates to Calgary and Edmonton.

8 MR. SINCLAIR: Have you a copy of Exhibit
9 81? We need quite a few statements up here.

10 MR. FRAWLEY: We probably will have more
11 before we are finished.

12 Q. If you will look at the second page
13 of Exhibit 81 you will find the same agreed charge,
14 177, set out with the same five origins in eastern
15 Canada, and you will find Calgary there and you
16 will find that Vancouver is \$3.65 and you will find
17 that Calgary is at \$4.70, which is another rate in
18 the same agreed charge.

19 A. That is right.

20 Q. That notation 14, Mr. Roberts,
21 is agreed charge 177?

22 A. Yes.

23 Q. Are these truck competitive rates?

24 A. The Vancouver rate and the Calgary
25 rate do represent a combination through the United
26 States.

27 Q. Of truck competitors?

28 A. No, rail competitors.

29 Q. And how does it happen, if they are
30 competitive in that way by rail, that Vancouver
gets \$3.65 and Calgary gets \$4.70?



1
2 A. The rate from the United States origin,
3 yes; in trucking the combination applies through
4 to Vancouver. The United States factor in getting
5 to Vancouver applies only to Coutts, Alberta.

6 Q. The rate to the west coast in the
7 United States, that rate is a low rate?

8 A. Well, I don't know what you mean by
9 low, Mr. Frawley.

10 Q. It is sufficiently low to let you get
11 - to require you to go to Vancouver for \$3.65.

12 A. It is something below \$3.65.

13 Q. And it also applies at Coutts?

14 A. That is right.

15 Q. The Seattle rate applies at Coutts?

16 A. The Spokane rate, anyway.

17 Q. And the Seattle rate applies at
18 Spokane and the Seattle rate applies at Coutts,
19 Alberta?

20 A. Well, it could be.

21 Q. And Sweetgrass, my friend tells me
22 which is just across the street from Coutts.

23 MR. SINCLAIR: Across the border. I never
24 knew it was a street.

25 MR. FRAWLEY: Q. Now, I want to get
26 on the record for the information of the Commissioners
27 that the Seattle rate from the same origin in the
28 eastern United States, the Seattle rate applies
29 at Spokane, and by virtue of there being no "out
30 of line" restriction, it also applies at Sweetgrass,
and that means Coutts.



1
2 A. In this case, yes. This may be the
3 Spokane rate; the Spokane rate would apply also.

4 Q. And the Spokane rate would apply as
5 the maximum to Vancouver?

6 A. No. It would apply as a maximum to
7 Vancouver? No.

8 Q. To Seattle, I am sorry; substitute
9 the word "Seattle" for Vancouver. The Seattle
rate would apply as a maximum to Spokane.

10 A. In some instances.

11 Q. On trans-continental traffic?

12 A. Yes.

13 Q. And that differs materially from the
14 situation in Canada?

15 A. We have the necessary authority under
16 the Railway Act to meet competition where and as it
exists in Canada.

17 Q. The answer is that in the United
18 States parity with the traffic exists on trans-
19 continental traffic and that doesn't exist in Canada.
20 We will hear more about that as we go on.

21 Now, I am putting it to you that Regina
22 has a rate of \$4.97 from Hamilton on these same
23 cigarettes, cigars and snuff as against the Vancouver
rate of \$3.65.

24 THE CHAIRMAN: Calgary is \$4.70.

25 MR. FRAWLEY: Yes, Calgary is \$4.70 and
26 Saskatoon is \$5.27.

27 Q. Now, you will find that on Exhibit
28 No. 89.



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A. \$4.97, yes.

Q. \$4.97 to Regina and \$5.27 to Saskatoon?

A. Yes, from Hamilton.

Q. You don't think that that is imbalance in the Canadian freight rate structure?

A. It is the rate necessary to move traffic.

Q. I am not suggesting ---

A. There is justification for those things.

Q. There may be, but it is an imbalance in the freight rate structure.

A. Well, I can't agree with you, sir.

Q. You can't agree with it because you say that you are forced into these conditions; you can't agree it is imbalance.

A. There is justification for it.

Q. And for the low Crow rates; it is a statute of the Parliament of Canada.

A. Well, they are under the statutes of Canada, that is quite true.

Q. One is a statutory matter and the other deals with economic benefits, bearing in mind - to make you keep these rates down.

A. There is a difference in the two.

Q. No difference at the end of the year in connection with the lost dollars.

A. No, so far as Crow's Nest rates are concerned.

Q. Now there is something else which I want to put to you. If you look at that agreed charge



1
2 177, I find that it was entered into in 1956 on
3 the 26th of July.

4 A. That is right.

5 Q. And there have been no increases
6 in it since then?

7 A. No sir.

8 Q. And you have had wage increases and
9 material increases, certainly wage increases and
10 some pretty heavy ones since that time?

11 A. That is right.

12 Q. But you haven't increased that agreed
13 charge at all?

14 A. We haven't been able to in the face
15 of competition.

16 Q. This may be just as good a time as
17 any to ask you to look two or three more of the
18 same kind, and would you look at agreed charge No.
19 89; that is an agreed charge on iron or steel
20 skelp from ---

21 A. What page is it?

22 Q. You will find it there in Exhibit
23 No. 81, you will find it at page 5 of Exhibit 81;
24 it is an agreed charge of 95 cents from Hamilton
25 and Sault Ste. Marie to Port Moody or Vancouver,
26 British Columbia, and I find - you have that, have
27 you?

28 A. Yes.

29 Q. And I suggest to you that that
30 agreed charge was entered into on the 21st of
April, 1955?



1
2 A. That is right.

3 Q. And I suggest to you that there has
4 been no increase whatever in that 95 cents since
5 that time.

6 A. No, there hasn't been any change
7 in the competition for which it was put in; it
8 was put in to meet foreign competition.

9 Q. And you have had several increases
10 in the costs, and notably the one that got a 17
11 per cent general increase in freight rates at the
12 end of 1958.

13 A. That is right.

14 Q. And you were not able to put that on
15 that?

16 A. No, because of the competition.

17 Q. I would ask you to look at the one
18 covering glass, common window glass, it is agreed
19 charge No. 118 - while we are still dealing with
20 this agreed charge, No. 89, would you mind going
21 back to page 5, Mr. Roberts.

22 MR. SINCLAIR: What is the agreed charge
23 number?

24 MR. FRAWLEY: That one is No. 89.

25 Q. That is the 95 cent rate to Vancouver
26 that I have just asked you about?

27 A. Yes.

28 Q. I am not quarrelling about the 95
29 cent rate, I am wondering if you have been able
30 to increase it, and you say no.

31 A. No.



1
2 Q. The fact is, to Calgary you have a
3 rate of \$2.20 and to Edmonton a rate of \$1.84,
4 and in the case of Edmonton the percentage
5 relationship is 93.7 per cent greater and your
6 rate to Edmonton is 93.7 per cent greater than
7 the rate to Vancouver, and now I ask you have you
8 been able to increase the Edmonton rate at the
9 last go-around?

10 A. May I ask one thing, Mr. Frawley,
11 on the rates; Calgary and Edmonton, do they
12 reflect the bridge subsidy ---

13 Q. If the rate clerk is doing his
14 work well and you look at the reference, it is
15 55, that should tell you. It is CFA 5-J. It is
16 less the bridge subsidy.

17 A. Yes, less the bridge subsidy.

18 Q. Have you been able to increase the
19 rate of \$1.84 to Edmonton; have you been able to
20 increase that rate?

21 A. I believe it was increased.

22 Q. I don't think there is any doubt you
23 increased that rate, so that the situation of this
24 imbalanced freight rate structure is that you were
25 not able to increase the 95 cent rate to Vancouver
26 but you were able to increase the rate to Edmonton,
27 so that it now stands or did stand on the 29th
28 of December last at \$1.84.

29 Now, would you pass to the window glass
30 which I was about to ask you something about, and
31 that is on page ---



1
2 A. On the agreed charge 89, Mr. Frawley,
3 there is a fixed charge to Edmonton on skelp; to
4 Edmonton for manufacture of pipe for re-shipment to
5 Vancouver.

6 Q. Yes, that is a limited fixed charge,
7 and that is with the skelp that they get in from
8 Hamilton and make into pipe and sell westward into
9 the British Columbia market?

10 A. That is right.

11 Q. But what they sell in the southern
12 part of Alberta or in the oil fields of Alberta,
13 there is no fixed charge on that.

14 A. The pipe?

15 Q. No, on the skelp coming in, there is
16 no fixed charge on the skelp, it doesn't go into
17 pipe for the British Columbia market?

18 A. That is right.

19 Q. That is right?

20 A. Yes.

21 Q. So that I put my question to you,
22 were you able to increase the rates on skelp to
23 Edmonton?

24 A. On traffic that was ultimately used
25 for the manufacture of pipe, for shipment to the
26 prairies, that rate on skelp, I think, did go up.

27 Q. That went up on the 95 cent rate, but
28 the costs didn't go up, and also the rate on skelp
29 for manufacture of pipe to be sent on and sold in
30 the British Columbia market, it didn't increase,
either?



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A. It didn't.

Q. But all the rest of the pipe to be
made from that skelp, it did take this increase?

A. Yes, the skelp.

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2 Q. If you look at glass, on page 3; it is
3 agreed charge No. 118, and that was entered into on the
4 22nd of November, 1959.

5 A. 1955.

6 Q. 1955, yes, and it is a rate of \$2 from
7 Toronto to Vancouver?

8 A. Yes, that is correct.

9 Q. And it has not taken an increase since
10 the date it went into effect in 1955?

11 A. No, sir, because of the foreign competi-
12 tion.

13 Q. And it did not take an increase, although
14 you had increased wage costs, if nothing else. However,
15 against that, on the same commodity, if you look at
16 page 3 of Exhibit 81, you will find that to Calgary,
17 for that window glass, from Toronto you get \$2.86 as
18 against \$2 to Vancouver?

19 A. Yes. We have an agreed charge on
20 window glass to Calgary and Edmonton.

21 Q. Yes, that may be what the notation says.
22 That is agreed charge 500. Now that that rate has
23 got into an agreed charge, it will not take any of your
24 horizontal percentage increases, due to wage costs?

25 A. I would not say that. We will endeavour
26 to negotiate an increase.

27 Q. But you have no assurance you will get one?

28 A. We have not, but we will endeavour to.

29 Q. But before it went into an agreed charge
30 -- and that is very recently; agreed charge 500 is dated
the 20th of October, 1958 -- before that date the rate



1
2 on common window glass took its regular increases going
3 to Calgary and Edmonton?

4 A. Yes, that is correct.

5 Q. But all the time there was a \$2 rate
6 from 1955 on window glass protected by an agreed charge?

7 A. Reflecting foreign competition.

8 Q. Exactly, but it didn't take any increases
9 at all, notwithstanding increased wage costs?

10 A. Not that particular agreed charge.

11 Q. And you still think that is not a con-
12 tributing factor to the imbalance in the Canadian
13 freight rate structure?

14 A. I say it reflects the competitive situa-
15 tion we have.

16 Q. It may do, but I put it to you that the
17 single fact of constantly imposed horizontal percentage
18 increases in and of itself has created a distortion in
19 the Canadian freight rate structure?

20 A. No, sir, I don't hold with the distortion.

21 Q. If you have a certain segment of the
22 rate structure under agreed charges ---and Exhibit 78
23 is here to be carefully examined by everybody; and I
24 compliment you for such a thorough job in showing all
25 of the agreed charges -- and when you have the situation
26 disclosed there and the limited and restricted degree
27 of the increases you have been able to put on agreed
28 charges, as against all of the horizontal percentage
29 increases that you have been able to put on traffic
30 between Eastern and Western Canada consistently since
1946, I say that fact alone contributes largely to the



1
2 imbalance of the Canadian freight rate structure.

3 A. Let us look at it properly and fairly,
4 Mr. Frawley.

5 Q. Well, I thought I was putting it fairly.

6 A. No, sir -- I beg your pardon.

7 Q. We must always continue to be polite to
8 one another. Maybe the Commissioners do not know it,
9 but it has been going on a long time.

10 A. You speak of the very few agreed charges
11 having been increased: back in 1954 there were only
12 54 agreed charges in effect.

13 Q. When was it that the agreed charges got
14 a real shot in the arm, Mr. Roberts?

15 A. 1956.

16 Q. In 1956? How about just after the cast
17 iron pipe case in 1952-1953?

18 A. Well, they moved up in 1955, and the total
19 was 96; and, in 1956, they went to 161.

20 Q. After you found out you didn't have to
21 apply the one and one-third rule to agreed charges,
22 then you went really into the business of agreed
23 charges on transcontinental traffic?

24 A. We started to make agreed charges to
25 meet competition as and where it exists.

26 Q. But before that you had to make them with
27 an ordinary published competitive rate, and you had to
28 give intermediate points, like Alberta and Western
29 Saskatchewan, a protection of not more than one-third
30 over that coast rate?

31 A. Under agreed charges we had to show our



1
2 revenue would be improved, as I recall, before 1955.

3 Q. But that is not what I am talking about.
4 I am talking about the fact that if you published an
5 ordinary open competitive rate from the East to
6 Vancouver, then you could not charge our receivers in
7 Calgary or Edmonton, or Saskatoon or Regina, more than
8 one-third over that coast rate?

9 A. That is correct.

10 Q. And that only continued up to the time
11 you found, through a conflict between the Transportation
12 Act and the Railway Act, that you didn't have to apply
13 it to agreed charges?

14 A. That is right; we don't have to apply
15 the one-third to agreed charges.

16 Q. Then, I put it to you that the number
17 of open published competitive rates to the west coast
18 went down, and the number of agreed charges to the
19 west coast went up?

20 A. We were able to put in rates and make
21 money.

22 Q. And then charge the intermediate points
23 just what the traffic would bear?

24 A. No, what was necessary to meet competi-
25 tion and move the traffic.

26 Q. No, what the traffic would bear -- just
27 as high up as the traffic would bear?

28 MR. FRAWLEY: Probably that would be a
29 good place to adjourn.

30 THE CHAIRMAN: Mr. Frawley, how long will
you be?



1
2 MR. FRAWLEY: I had hoped, of course, to
3 finish tonight, knowing that Mr. Crump has been called
4 for ten o'clock tomorrow morning. However, it has
5 been impossible. Mr. Blair, of course, is following
6 me.

7 MR. SINCLAIR: That is all right. Mr.
8 Crump will come along and by the time we get through
9 with the examination and the re-examination he will
10 move right on.

11 THE CHAIRMAN: We can fix two o'clock Monday
12 for Mr. Crump.

13 MR. FRAWLEY: I would think so. I would,
14 personally, prefer that, because Mr. Crump is a busy
15 man. I would like to discuss this with Mr. Roberts
16 as leisurely as I have this afternoon.

17 MR. SINCLAIR: That will be fine, Mr. Chairman.

18 MR. DICKSON: Mr. Chairman, we have to
19 return something we borrowed, and, for the record, I
20 would like to say that with reference to the free time
21 allowance that came up this morning that under the
22 special arrangements of C.T.C. No. 6, an exception to
23 the rule for dealing with free time allowance gives
24 twenty-four hours' free time allowed for loading grain
25 during the months of September, October and November
26 in the part of Canada Port Arthur and west, to which
27 Sections 68 and 72 of the Canada Grain Act apply;
28 in other words, the line elevator.

29 MR. MAURO: That is the question I asked
30 this morning, Mr. Chairman.

31 THE CHAIRMAN: Mr. MacKimmie, have you any



1
2 cross-examination of Mr. Roberts?

3 MR. MacKIMMIE: In view of the extensive
4 cross-examination that has taken place, I am advised
5 that everything we have has been pretty well covered.

6 THE CHAIRMAN: Well, we will adjourn until
7 ten o'clock on Monday morning.

8 ---Adjournment.
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